



LODI CITY COUNCIL
Carnegie Forum
305 West Pine Street, Lodi

AGENDA – REGULAR MEETING

Date: October 18, 2006

Time: Closed Session 6:30 p.m.
Regular Meeting 7:00 p.m.

For information regarding this Agenda please contact:

Jennifer M. Perrin
Interim City Clerk
Telephone: (209) 333-6702

NOTE: All staff reports or other written documentation relating to each item of business referred to on the agenda are on file in the Office of the City Clerk and are available for public inspection. If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. To make a request for disability-related modification or accommodation contact the City Clerk's Office as soon as possible and at least 24 hours prior to the meeting date.

C-1 Call to Order / Roll Call

C-2 Announcement of Closed Session

- a) Actual litigation: Government Code §54956.9(a); one case; Hartford Accident and Indemnity Company, et al. v. City of Lodi, et al., Superior Court, County of San Francisco, Case No. 323658
- b) Actual Litigation: Government Code §54956.9(a); one case; People of the State of California; and the City of Lodi, California v. M & P Investments, et al., United States District Court, Eastern District of California, Case No. CIV-S-00-2441 FCD JFM

C-3 Adjourn to Closed Session

NOTE: THE FOLLOWING ITEMS WILL COMMENCE NO SOONER THAN 7:00 P.M.

C-4 Return to Open Session / Disclosure of Action

A. Call to Order / Roll call

B. Invocation – Reverend Michael Voytek, Providence Reformed Church

C. Pledge of Allegiance

D. Presentations

- D-1 Awards
 - a) Presentation of Community Improvement Award (CD)
- D-2 Proclamations – None
- D-3 Presentations – None

E. Consent Calendar (Reading; comments by the public; Council action)

- E-1 Receive Register of Claims in the amount of \$5,404,572.47 (FIN)
- E-2 Approve minutes (CLK)
 - a) August 16, 2006 (Regular Meeting)
 - b) September 19, 2006 (Shirtsleeve Session)
- E-3 Approve plans and specifications and authorize advertisement for bids for roof replacement improvements at Legion Park, 835 South Hutchins Street, and Kofu Park, 1145 South Ham Lane (PR)

- Res. E-4 Adopt resolution awarding contract for Traffic Signal Preventive Maintenance and Repair Program, Fiscal Year 2006-07, to Republic ITS, of Novato, CA (\$18,894), and appropriating funds for on-call traffic signal repairs (\$20,000) (PW)

- Res. E-5 Adopt resolution authorizing Fee Payment Agreement for 2223 West Kettleman Lane (PW)
- Res. E-6 Adopt resolution approving Hold Harmless Agreement with Lodi Unified School District for temporary placement of six portable classrooms on north Grape Bowl parking lot (PW)
- Res. E-7 Adopt resolution authorizing the City Manager to enter into a professional services agreement with Power Engineers, Inc. of Hailey, ID, for engineering and design of the scaled-back rehabilitation of Killelea Substation and to reject all other design/engineering proposals (\$115,819) (EUD)
- E-8 Authorize the City Manager to execute a land lease with the Community Partnership for Families of San Joaquin for construction of a Family Resource Center at Blakely Park (CM)
- Res. E-9 Adopt resolution authorizing the City of Lodi to endorse the California Memorandum of Understanding in support of the National Action Plan for Energy Efficiency (EUD)
- Res. E-10 Adopt resolution authorizing the City Manager or designee to execute standard Electrical Interconnection and Co-Energy/Net Energy Metering Payment Agreements (EUD)
- Res. E-11 Adopt resolution authorizing the receipt of \$23,000 in grant funding from the State Department of Housing and Community Development (CD)
- E-12 Set public hearing for November 1, 2006, to consider the following (CD):
- a) Certify the Lodi Annexation Environmental Impact Report for the Southwest Gateway Project (including "other annexation areas") and Westside Project
 - b) Approve the Southwest Gateway Project, which includes an annexation; pre-zoning; amendment to the Bicycle Transportation Master Plan; and Development Agreement; to incorporate 305 acres into the City of Lodi (257 acres with the Southwest Gateway Project area and 47.79 contiguous acres outside the Project); to allow construction of 1,300 dwelling units, 5 neighborhood/community parks, and a public elementary school on the west side of Lower Sacramento Road, south of Kettleman Lane, north of Harney Lane

Including a City initiated request for the "other annexation areas" (47.79 acres) for annexation, General Plan Amendment from a land use designation of PR (Planned Residential) to MDR (Medium Density Residential), and a pre-zoning of R-MD (Residential Medium Density) to avoid creation of a county island
 - c) Approve the Westside Development Project, which includes an annexation; pre-zoning; amendment to the Bicycle Transportation Master Plan; Development Agreement; and an amendment to the Westside Facilities Master Plan to incorporate 151 acres into the City of Lodi to allow construction of 750 dwelling units, 3 neighborhood/community parks, and a public elementary school at 351 East Sargent Road, 70 East Sargent Road, 212 East Sargent Road, and 402 East Sargent Road

F. Comments by the public on non-agenda items

THE TIME ALLOWED PER NON-AGENDA ITEM FOR COMMENTS MADE BY THE PUBLIC IS LIMITED TO FIVE MINUTES.

The City Council cannot deliberate or take any action on a non-agenda item unless there is factual evidence presented to the City Council indicating that the subject brought up by the public does fall into one of the exceptions under Government Code Section 54954.2 in that (a) there is an emergency situation, or (b) the need to take action on the item arose subsequent to the agenda's being posted.

Unless the City Council is presented with this factual evidence, the City Council will refer the matter for review and placement on a future City Council agenda.

G. Comments by the City Council Members on non-agenda items

H. Comments by the City Manager on non-agenda items

I. Public Hearings

- Res. I-1 Public hearing to consider adopting resolution levying annual (2007) assessment for Downtown Lodi Business Improvement Area No. 1 and confirming the Downtown Lodi Business Partnership 2006-07 Annual Report (as approved by Council on October 4, 2006) (CM)

J. Communications

- J-1 Claims filed against the City of Lodi – None
J-2 Appointments – None
J-3 Miscellaneous – None

K. Regular Calendar

- K-1 Authorize the City Manager to execute agreement with property owner for watershed mural at 207 West Oak Street (PW)
- Res. K-2 Adopt resolution authorizing the City Manager to accept a grant award for the Railroad Corridor Transit Oriented Development (TOD) Plan from the California Department of Transportation (Caltrans) in the amount of \$75,000 with an in-kind contribution of \$9,250 and a fiscal contribution of \$9,500 and to execute all necessary agreements; and upon execution of the grant by Caltrans, authorize the City Manager to solicit proposals from qualified consultants to prepare a Railroad Corridor TOD Plan in a designated area downtown (CD)
- Res. K-3 Adopt resolution authorizing the City Manager and Electric Utility Director to procure energy and/or natural gas for fiscal year 2007-08 at a cost not to exceed \$25 million (EUD)
- K-4 Approve expenses incurred by outside counsel/consultants relative to the Environmental Abatement Program litigation and various other cases being handled by outside counsel (\$11,309.23) (CA)

L. Ordinances – None

M. Adjournment

Pursuant to Section 54954.2(a) of the Government Code of the State of California, this agenda was posted at least 72 hours in advance of the scheduled meeting at a public place freely accessible to the public 24 hours a day.

Jennifer M. Perrin
Interim City Clerk



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Presentation of Community Improvement Award

MEETING DATE: October 18, 2006

PREPARED BY: Community Improvement Manager

RECOMMENDED ACTION: That the Mayor present a Community Improvement Award to Gerry and Valerie Phillips, owners and residents of 930 S. Central Avenue, for their efforts in improving and maintaining the appearances of their property.

BACKGROUND INFORMATION: In an effort to provide recognition to owners or occupants of residential, commercial or industrial properties that have made improvements or have demonstrated a history of a well-maintained property, all of which contributes to the beautification of the community, the Community Improvement Award program was established. Community Improvement Award nominations are received at various times throughout the year and are brought before the Lodi Improvement Committee for review at their regular meetings. City Staff provides the Improvement Committee with any pertinent information, including property ownership, the nature of the improvements or conditions upon the property that warrant recognition, as well as any background pertaining to code enforcement, police activity or other notable issue that could have bearing on the nomination.

At the Lodi Improvement Committee of October 3, 2006, the following information and supporting photographs regarding a property at 930 S. Central Avenue that had been nominated for a Community Improvement Award was received and taken under consideration:

930 S. Central Avenue

Property owners: Gerry and Valerie Phillips

Single-family dwelling originally built in mid-1940's.

Various improvements over the years, including a steel patio cover in 1987.

Current resident owners have made improvements to the exterior over the past few years which include repainting the exterior and improving the irrigation and landscaping in the front yard.

The current owners have also been very active in their community by bringing nuisance issues to the attention of the Lodi Improvement Committee, the Lodi Police Department and the Community Improvement Division. They are also active in the Neighborhood Watch program.

APPROVED: _____
Blair King, City Manager

This nomination was the only one received and under review at that meeting. The nomination came from the property owners themselves. After the review of the property, the Lodi Improvement Committee voted unanimously to award a Community Improvement Award to Gerry and Valerie Phillips, as recognition and in appreciation for their efforts to improve and maintain their property in such a fashion that it has a positive effect on the neighborhood and to celebrate them as an example for property owners and residents throughout the community.

Joseph Wood
Community Improvement Manager

cc: Lodi Improvement Committee
Gerry & Valerie Phillips



930 S. Central – Current Photo





CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Receive Register of Claims Dated October 3, 2006 in the Amount of \$5,404,572.47

MEETING DATE: 10/18/06

PREPARED BY: Management Analyst

RECOMMENDED ACTION: That the City Council receive the attached Register of Claims. The disclosure of the PCE/TCE expenditures is shown as a separate item on the Register of Claims.

BACKGROUND INFORMATION: Attached is the Register of Claims in the amount of \$5,404,572.47 dated October 3, 2006 which includes no PCE/TCE payments and Payroll in the amount of \$1,217,711.23.

FISCAL IMPACT: n/a

FUNDING AVAILABLE: As per attached report.

Ruby R. Paiste, Financial Services Manager

____/____

Attachments

cc:

APPROVED: _____
Blair King, City Manager

CRS 09-21-06.txt
Accounts Payable
Council Report

Page
Date - 10/03/06
Amount

As of Thursday	Fund	Name	Amount
09/21/06	00100	General Fund	697,573.76
	00160	Electric Utility Fund	11,628.72
	00164	Public Benefits Fund	2,481.71
	00170	Waste Water Utility Fund	105,361.03
	00180	Water Utility Fund	47,905.59
	00181	Water Utility-Capital Outlay	78,654.24
	00184	Water PCE-TCE-Settlements	506.32
	00210	Library Fund	10,325.82
	00234	Local Law Enforce Block Grant	163.71
	00260	Internal Service/Equip Maint	6,039.57
	00270	Employee Benefits	22,825.65
	00300	General Liabilities	5,000.00
	00310	Worker's Comp Insurance	38,176.32
	00321	Gas Tax	24,658.57
	00340	Comm Dev Special Rev Fund	1,530.19
	00501	Lcr Assessment 95-1	150.00
	00502	L&L Dist Z1-Almond Estates	1,213.33
	00503	L&L Dist Z2-Century Meadows I	1,018.33
	00506	L&L Dist Z5-Legacy I, II, Kirst	1,538.34
	01211	Capital Outlay/General Fund	5,089.48
	01250	Dial-a-Ride/Transportation	17,457.83
	01410	Expendable Trust	3,561.04
Sum			1,082,859.55
	00183	Water PCE-TCE	315.00-
Sum			315.00-
Total for Week			
Sum			1,082,544.55

CRS 09-28-06.txt
Accounts Payable
Council Report

Page
Date - 10/03/06
Amount - 1

As of Thursday	Fund	Name	Amount
09/28/06	00100	General Fund	437,259.79
	00160	Electric Utility Fund	3,461,237.55
	00161	Utility Outlay Reserve Fund	2,105.00
	00164	Public Benefits Fund	233.02
	00170	Waste Water Utility Fund	14,759.16
	00171	Waste Wtr Util-Capital Outlay	117.56
	00172	Waste Water Capital Reserve	533.56
	00180	Water Utility Fund	5,236.36
	00181	Water Utility-Capital Outlay	525.82
	00184	Water PCE-TCE-Settlements	37.41
	00210	Library Fund	6,481.49
	00234	Local Law Enforce Block Grant	20,261.65
	00235	LPD-Public Safety Prog AB 1913	56.91
	00260	Internal Service/Equip Maint	8,632.67
	00270	Employee Benefits	9,936.02
	00300	General Liabilities	4,078.80
	00321	Gas Tax	69,505.68
	00325	Measure K Funds	58,946.41
	00340	Comm Dev Special Rev Fund	1,646.46
	00501	Lcr Assessment 95-1	1,302.99
	01218	IMF General Facilities-Adm	9,965.81
	01241	LTF-Pedestrian/Bike	6,699.50
	01250	Dial-a-Ride/Transportation	194,222.00
	01410	Expendable Trust	8,246.30
Sum			4,322,027.92
Total for Week			
Sum			4,322,027.92

PR 09-24-06 RT 10-31-06.txt
Council Report for Payroll

Page - 1
Date - 10/03/06

Payroll	Pay Per Date	Co	Name	Gross Pay
Regular	09/24/06	00100	General Fund	833,816.96
		00160	Electric Utility Fund	126,423.39
		00164	Public Benefits Fund	5,023.95
		00170	Waste Water Utility Fund	64,765.43
		00180	Water Utility Fund	7,904.12
		00210	Library Fund	32,915.73
		00235	LPD-Public Safety Prog AB 1913	197.92
		00260	Internal Service/Equip Maint	16,555.08
		00321	Gas Tax	55,566.02
		00340	Comm Dev Special Rev Fund	38,514.70
		01250	Dial-a-Ride/Transportation	2,994.77
Pay Period Total:				
Sum				1,184,678.07
Retiree	10/31/06	00100	General Fund	33,033.16
Pay Period Total:				
Sum				33,033.16



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CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Approve Minutes
a) August 16, 2006 (Regular Meeting)
b) September 19, 2006 (Shirtsleeve Session)

MEETING DATE: October 18, 2006

PREPARED BY: City Clerk

RECOMMENDED ACTION: That the City Council approve the following minutes as prepared:
a) August 16, 2006 (Regular Meeting)
b) September 19, 2006 (Shirtsleeve Session)

BACKGROUND INFORMATION: Attached are copies of the subject minutes, marked Exhibits A through B.

FISCAL IMPACT: None.

FUNDING AVAILABLE: None required.

Jennifer M. Perrin
Interim City Clerk

JMP
Attachments

APPROVED: _____
Blair King, City Manager

**LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, AUGUST 16, 2006**

C-1 CALL TO ORDER / ROLL CALL

The City Council Closed Session meeting of August 16, 2006, was called to order by Mayor Hitchcock at 5:39 p.m.

Present: Council Members – Beckman, Hansen, Johnson, Mounce, and Mayor Hitchcock (arrived at 5:41 p.m.)

Absent: Council Members – None

Also Present: City Manager King, City Attorney Schwabauer, and Interim City Clerk Perrin

C-2 ANNOUNCEMENT OF CLOSED SESSION

- a) Actual litigation: Government Code §54956.9(a); one case, City of Lodi v. Michael C. Donovan, an individual; Envision Law Group, LLP, et al., San Francisco, Superior Court, Case No. CGC-05-441976
- b) Actual litigation: Government Code §54956.9(a); one case; Hartford Accident and Indemnity Company, et al. v. City of Lodi, et al., Superior Court, County of San Francisco, Case No. 323658
- c) Actual Litigation: Government Code §54956.9(a); one case; People of the State of California; and the City of Lodi, California v. M & P Investments, et al., United States District Court, Eastern District of California, Case No. CIV-S-00-2441 FCD JFM
- d) Actual litigation: Government Code §54956.9(a); one case; Peter Rose et al. v. the City of Lodi, et al.; United States District Court, Eastern District of California, Case No. CIV.S-05-02229
- e) Actual Litigation: Government Code §54956.9(a); one case; County of San Joaquin v. City of Stockton et al., San Joaquin County Superior Court, Case No. CV029651
- f) Conference with legal counsel – initiation of litigation; Government Code §54956.9(c); one case

C-3 ADJOURN TO CLOSED SESSION

At 5:39 p.m., Mayor Pro Tempore Johnson adjourned the meeting to a Closed Session to discuss the above matters.

The Closed Session adjourned at 6:26 p.m.

C-4 RETURN TO OPEN SESSION / DISCLOSURE OF ACTION

At 7:00 p.m., Mayor Hitchcock reconvened the City Council meeting, and City Attorney Schwabauer disclosed that Items C-2 (a), (b), (c), (d), (e), and (f) were discussion and direction only; no action was taken.

A. CALL TO ORDER / ROLL CALL

The Regular City Council meeting of August 16, 2006, was called to order by Mayor Hitchcock at 7:00 p.m.

Present: Council Members – Beckman, Hansen, Johnson, Mounce, and Mayor Hitchcock

Absent: Council Members – None

Also Present: City Manager King, City Attorney Schwabauer, and Interim City Clerk Perrin

B. INVOCATION

The invocation was given by Ken Owen, Christian Community Concerns.

C. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Hitchcock.

D. AWARDS / PROCLAMATIONS / PRESENTATIONS

D-1 (a) Mayor Hitchcock presented Community Improvement Awards to the owners of the following properties for their efforts in improving and maintaining the appearances of their neighborhood:

- **800 S. Central** – Douglas Hieb
- **406 Maple** – Mohammad & Khalida Perviz
- **411 Maple** – Enrique & C R Leyva
- **420 Maple** – Cecelia Guzman
- **432 Maple** – Ignacio & Rosie Ortiz
- **435 Maple** – Maria de La Luz Gomez

D-2 (a) Mayor Hitchcock presented a proclamation to Stephanie Messmer, AmeriCorps Literacy volunteer, proclaiming August 24, 2006, as “Read for the Record Day” in the City of Lodi. Ms. Messmer explained that the purpose of this program is to break the world record for the most children read to on one day reading the same book, “The Little Engine That Could.” Two events will take place in Lodi on August 24 – the first one at the Lodi Public Library from 10:00 a.m. to noon, and the second at the historic train station from 5:00 to 6:30 p.m. Anyone interested in volunteering was encouraged to contact the Lodi Public Library at 333-5534.

D-3 Presentations – None

E. CONSENT CALENDAR

In accordance with the report and recommendation of the City Manager, Council, on motion of Council Member Beckman, Mounce second, unanimously approved the following items hereinafter set forth **except those otherwise noted**:

- E-1 Claims were approved in the amount of \$6,508,874.99.
- E-2 The minutes of June 21, 2006 (Regular Meeting), July 18, 2006 (Shirtsleeve Session), July 25, 2006 (Shirtsleeve Session), and August 9, 2006 (Special Meeting) were approved as written.
- E-3 Received the quarterly report of purchases between \$5,000 and \$20,000.
- E-4 Approved the request for proposals for benefits administration consultant/broker services for distribution to interested firms.
- E-5 “Adopt resolution awarding contract for upgrades to Carnegie Forum audio/visual presentation equipment to Anderson Audio Visual, of Sacramento (\$18,713.75)” was **removed from the Consent Calendar and discussed and acted upon following the “Comments by the public on non-agenda items” segment of the agenda.**
- E-6 “Adopt resolution awarding contract for Well 27 Well Drilling at 2360 West Century Boulevard (DeBenedetti Park) to Zim Industries, Inc., of Fresno (\$208,700)” was **removed from the Consent Calendar and discussed and acted upon following the “Comments by the public on non-agenda items” segment of the agenda.**
- E-7 Adopted Resolution No. 2006-154 awarding the contract for Church Street and Sacramento Street Overlays 2006 Project to George Reed, Inc., of Lodi, in the amount of \$374,791.
- E-8 Adopted Resolution No. 2006-155 approving additional technical services with Treadwell & Rollo, Inc., and appropriating funds in the amount of \$235,000.
- E-9 Adopted Resolution No. 2006-156 accepting improvements under the “Elevated Water Tank Recoating Project” contract.

- E-10 Adopted Resolution No. 2006-157 accepting street improvements along Harney Lane and Cherokee Lane and 24-foot wide public lanes within The Villas, Tract No. 3400.
- E-11 Adopted Resolution No. 2006-158 accepting the improvements at Vintner's Square, Parcel Map No. 002P008 at the corner of Lower Sacramento Road and Kettleman Lane.
- E-12 "Adopt resolution authorizing the City Manager to execute a professional services agreement with Wenell Mattheis Bowe for design services for the Municipal Service Center transit vehicle maintenance facility (not to exceed \$186,700)" was **removed from the Consent Calendar and discussed and acted upon following the "Comments by the public on non-agenda items" segment of the agenda.**
- E-13 Authorized the City Manager to terminate the lease option agreement with Lodi City Center 12 for the retail space in the Lodi Station Parking Structure.
- E-14 Set public hearing for August 30, 2006, to consider certifying an Environmental Impact Report and approving General Plan amendment, zone change, development agreement, and annexation to allow development of a single tenant office building (approximately 200,000 square feet) on 20 acres, general retail commercial uses on 40 acres, 1,084 dwelling units of various densities, and associated public and quasi-public facilities (Reynolds Ranch project) on a total of 220 acres located on the south side of Harney Lane between State Highway 99 and the Union Pacific Railroad to the west (Applicant: San Joaquin Valley Land Company, File #s 06-GM-01, 06-EIR-01, 06-AX-01).
- E-15 "Set public hearing for September 6, 2006, to consider two appeals of the Planning Commission's site and architectural plan approval for the Vineyard Christian Middle School located at 2301 West Lodi Avenue (Appellants: Vineyard Christian Middle School and David Johnson et al., regarding File #06-SP-06)" was **removed from the Consent Calendar and discussed and acted upon following the "Comments by the public on non-agenda items" segment of the agenda.**

ACTION ON ITEMS REMOVED FROM THE CONSENT CALENDAR

Mayor Hitchcock suggested moving the pulled items to the end of the agenda due to the fact that a number of citizens were here to discuss Item K-1, to which Council Member Beckman called for point of order and stated that he believed a motion was required to rearrange the agenda. In order to allow the City Attorney adequate time to locate the subject rule to address this issue, Mayor Hitchcock proceeded to the "Comments by the public on non-agenda items" segment of the agenda.

F. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

- Troy Wagers expressed concern regarding the proposed Delta College satellite campus along Victor Road and the probability that Delta College would sell half of the land to developers, which could potentially bring in big box stores. Mr. Wagers stated that he was a fourth generation Lodian and did not want to see Lodi evolve into another Elk Grove. Lodi has some of the best farm land, a great micro-climate, and is gearing up to become a destination for wine and tourism. He was opposed to tearing into prime agricultural land to construct a building, particularly if half of it will be sold to developers. The project was poorly planned, and he believed that the taxpayers should be informed of how much was paid for the land and how much the City will pay for the infrastructure associated with this project.
- Toni Miller also expressed concern regarding the proposed location for the Delta College satellite campus and was opposed to utilizing prime farm land for this type of development. The founding fathers envisioned Lodi as a farming community, and she believed that Lodi was fast becoming a mini Stockton. Lodi's crime rate has increased with this growth, and Lodi has steadily lost its reputation. This community should be one that draws in visitors for its wine and cherry industry. Ms. Miller stated that she lives five miles outside of Lodi, yet this City Council is making decisions that affect her property. She stated that the water level near her property has dropped because of Lodi's utilization of the water. The traffic issues created by Delta

College will negatively impact the area as the school would be accessed from 6:30 a.m. until 10:00 p.m. using Victor Road, Turner Road, Cluff Avenue, Guild Avenue, Tecklenburg Lane, and Kettleman Lane, all of which are two-lane roads. Ms. Miller expressed her willingness to meet with City staff to discuss alternate sites for the Delta College campus.

- Mary Hoff reported that the Delta College Board of Trustees voted at its meeting last night, 5 to 2, to postpone the vote for 30 days on the proposed Victor Road site for the satellite campus in Lodi. Ms. Hoff stated that a petition is being circulated that reads, *"Delta College is considering purchasing 168 acres on Highway 12/Victor Road and Kennison Lane using educational bond funds. The College administration has indicated that they intend to sell roughly half the property to commercial developers to make enough money to build the campus buildings and after they have successfully converted this Ag-40 zoned land to commercial zoning. We, the undersigned, are opposed to the use of educational bond funds for the purpose of purchasing property on Kennison Land and Highway 12/Victor Road for any purpose other than education. We are opposed to Delta using its educational status to contravene agricultural zoning to allow commercial development"* (filed). To date, over 500 signatures have been collected. The Delta College Board of Trustees also received an email from the Delta Sierra Club (filed) stating that it will do a thorough environmental review in conjunction with the Environment Impact Report. Ms. Hoff pointed out that other sites were considered, three of which were on the west side, that had the approximate acreage needed by Delta College, as well as easy access, infrastructure, and development already occurring in those areas. Other suggestions have been made to incorporate Delta College into the downtown or east side of Lodi, including the use of vacant buildings and empty lots along Main, Sacramento, Pine, and Elm Streets. Ms. Hoff stated that a culinary school could go into the downtown restaurant area, or a nursing program could be implemented at one of the Lodi Memorial Hospital facilities. She stated that she was in favor of Delta College locating in Lodi; however, she was strongly opposed to the east Victor Road site for this campus.

In response to Mayor Hitchcock, Mr. King reported that Lodi suggested two sites to the Delta College Board: one along Highway 99 north of the Mokelumne River and the other along Victor Road. Delta College analyzed a total of eight sites, ultimately selected the Victor Road location, and subsequently entered into a six-month due diligence period with the City. There is currently no action pending before the City Council; although, there may be in the future depending upon the actions taken by the Delta College Board of Trustees.

- David Nielsen requested information on what the specific plan and timeline was for the City to assist the neighbors of East Locust Street before they proceed to sue unresponsive landlords in Small Claims Court. He has been working with the Police Department and Code Enforcement to resolve the many issues; however, it has been 2 months and 14 days since he first brought the neighborhood concerns to the attention of the City Council.

Mr. King suggested that a Shirtsleeve Session be scheduled to further discuss the status of this matter. Community Improvement Manager, Joseph Wood, has been in contact with individual property owners on a case-by-case basis and recommendations have been made with regard to physical changes to properties, businesses practices, and in some cases the need for an on-site manager. The Police Department has committed to overtime funds to provide saturated enforcement in the area and will continue to do so.

Mayor Pro Tempore Johnson believed that litigation was an option available to the residents outside of the City's purview and he encouraged them to proceed. He further encouraged City staff to provide the necessary documentation and support to the neighbors to assist in this effort.

- Eileen St. Yves announced that the Lodi Improvement Committee will hold a meeting on September 5 to discuss these issues and will provide information to assist the community. Further, Ms. St. Yves reported that new California legislation would allow sexual offenders to live on property, against which property owners could not contest. New legislation would also extend the eviction notice to 60 days, which would make it much more difficult for the removal of a tenant.

- Virginia Snyder stated that in 1993 former City Attorney, Bob McNatt, assisted the East Side Improvement Committee in drafting a plan that was legal for neighbors to sue property owners in Small Claims Court and allow them to remove tenants who were into drugs, prostitution, and gangs. She urged Council to give the neighbors of East Locust Street every bit of support, including legal advice.

ACTION ON ITEMS REMOVED FROM THE CONSENT CALENDAR

City Attorney Schwabauer stated that Resolution 2006-31 regarding conduct of Council meetings offers three rules that could apply to the placement of pulled Consent Calendar items: 1) Call for Orders of the Day – any member may demand that the agenda be followed in the order stated therein, no second is required, and the chair must comply unless the Council, by majority vote, sets aside the orders of the day; 2) Point of Order – any member may require the chair to enforce the rules of the Council by raising a point of order, the point of order shall be ruled upon by the chair; and 3) Appeal – should any member be dissatisfied with a ruling from the chair, he/she may move to appeal the ruling to the full Council, the motion must be seconded to put it before the Council, the majority in the negative or a tie vote sustains the ruling of the chair, the motion is debatable and the chair may participate in the debate.

Mayor Hitchcock suggested moving forward with the pulled Consent Calendar items and that consideration be given to those who wished to speak on Item K-1.

- E-5 “Adopt resolution awarding contract for upgrades to Carnegie Forum audio/visual presentation equipment to Anderson Audio Visual, of Sacramento (\$18,713.75)”

Mayor Pro Tempore Johnson questioned how much of this system was needed, to which Mr. King responded that he believed this proposal was a minimum. The tools used to communicate with Council and the public is poor, antiquated, and is not guaranteed to work from one presentation to another. One of the proposed pieces of equipment would project images from the overhead screen directly to the cable system so viewers at home could view the information. Additionally, a document character generator would provide staff and public the ability to display handouts, photographs, maps, etc. on the overhead screen for all to view. Currently, the City is using wireless technology, which is not reliable, and staff is proposing to hard wire the equipment for better dependability.

In response to Mr. Johnson regarding add-on costs, Deputy City Manager Krueger stated that representatives from Anderson Audio Visual recommended a separate sound system to accommodate the presentation equipment as the current sound system is inadequate. He was unsure on what the cost would be for a future upgrade to the City's sound system, but he believed the expenditures related to the audio/visual equipment was money well spent and should not be deferred.

Mayor Hitchcock stated that she has received complaints from viewers who say they cannot hear many of the presenters, to which Mayor Pro Tempore Johnson countered that the same holds true for televised meetings of the San Joaquin County Board of Supervisors and the Lodi Unified School District Board of Trustees.

Council Member Hansen expressed support for this purchase, particularly because it allows the home viewer to see the information presented on the overhead.

MOTION / VOTE:

The City Council, on motion of Council Member Hansen, Beckman second, adopted Resolution No. 2006-159 awarding the contract for upgrades to Carnegie Forum audio/visual presentation equipment to Anderson Audio Visual, of Sacramento, in the amount of \$18,713.75. The motion carried by the following vote:

Ayes: Council Members – Beckman, Hansen, and Mayor Hitchcock

Noes: Council Members – Johnson and Mounce

Absent: Council Members – None

- E-6 "Adopt resolution awarding contract for Well 27 Well Drilling at 2360 West Century Boulevard (DeBenedetti Park) to Zim Industries, Inc., of Fresno (\$208,700)"

Council Member Mounce questioned why this project was moving forward before any progress has been made on DeBenedetti Park and where the remaining funds would come from to pay for the building of this park.

Public Works Director Prima responded that the City's water supply system is handled entirely by wells. The City requires a number of wells to supply peak demands throughout the City and is presently two wells short. Currently, there are two wells in development: one at DeBenedetti Park and the other at Kettleman Lane, across from Lowe's. Wells are typically installed prior to park improvements.

Council Member Mounce questioned if this well would support development that has already occurred in this section of town, to which Mr. Prima replied in the affirmative and added that it would support the entire City as well.

MOTION / VOTE:

The City Council, on motion of Mayor Pro Tempore Johnson, Hansen second, adopted Resolution No. 2006-160 awarding the contract for Well 27 Well Drilling at 2360 West Century Boulevard (DeBenedetti Park) to Zim Industries, Inc., of Fresno, in the amount of \$208,700. The motion carried by the following vote:

Ayes: Council Members – Beckman, Hansen, Johnson, and Mayor Hitchcock

Noes: Council Members – Mounce

Absent: Council Members – None

- E-12 "Adopt resolution authorizing the City Manager to execute a professional services agreement with Wenell Mattheis Bowe for design services for the Municipal Service Center transit vehicle maintenance facility (not to exceed \$186,700)"

Mayor Pro Tempore Johnson expressed concern that this professional services agreement was not put out to bid and stated that the City should consider proposals from other architects. He pointed out that Wenell Mattheis Bowe would be subcontracting a portion of the work, which indicates that there are other firms who specialize in this type of design work.

Council Members Mounce and Beckman and Mayor Hitchcock agreed with this comment and requested further explanation.

City Manager King responded that staff did not solicit beyond two firms and he believed there may be a time constraint on this matter. He requested that staff be given the opportunity to discuss this issue during an upcoming break and make a recommendation to Council at a later point during the meeting, to which Mayor Hitchcock concurred.

- E-15 "Set public hearing for September 6, 2006, to consider two appeals of the Planning Commission's site and architectural plan approval for the Vineyard Christian Middle School located at 2301 West Lodi Avenue (Appellants: Vineyard Christian Middle School and David Johnson et al., regarding File #06-SP-06)"

Council Member Mounce requested that Council set this public hearing for September 20, rather than September 6, as she will be representing the City at the League of California Cities annual conference. With Mayor Hitchcock abstaining from this matter, she believed it was important to have the remaining four Council Members present at this hearing.

Council Member Hansen stated that he was reluctant to put off this matter without first hearing from the appellants. He was also concerned that there was a timing issue regarding the opening of the school.

Mayor Pro Tempore Johnson stated that he may be out of state on September 20, which could further delay the hearing to October. He agreed that timing is of the essence to the participants.

Council Member Beckman questioned at what point would the appeals be exhausted and the applicants be able to move forward on this project, to which City Attorney Schwabauer responded that in this case the project was appealed twice. The project initially went before the Site Plan and Architectural Review Committee (SPARC) for approval; next to the Planning Commission; and then to the City Council as an appeal on the use permit. The use permit contained a number of conditions, including the school entrance location and the layout and number of temporary buildings, which were subsequently modified. The school was then required to return to SPARC to seek a change to its conditional use permit, which went again before the Planning Commission and was appealed to the City Council. Assuming the school receives its conditional use permit at this hearing, this issue would end unless further modifications to the plan are requested.

Council Member Beckman stated that he believed it was important to have four Council Members present at the hearing; however, he was not in favor of delaying this matter until October.

Council Member Mounce stated that, if the hearing is not postponed to September 20, she would be forced to cancel her attendance at the League conference in order to participate.

PUBLIC COMMENTS:

- David Johnson, appellant representing the neighbors surrounding the proposed school, stated that this has been on-going since February 2006. The neighbors believed the issues had been resolved; however, the conditions were not met by the school, which prompted the appeals. He believed that both the neighborhood and the school deserved to have all four Council Members present at the hearing to consider the concerns and take action on this last appeal. He stated that the school's plans were submitted to SPARC one hour before its meeting, which resulted in a number of errors, and he believed this matter should not be rapidly pushed through.
- Pat Patrick, speaking as a parent, stated that the Planning Commission voted at its last meeting, 4 to 3, to move the project forward. The appeal from the school was in regard to the conditions placed on the erection of a fence around the school and whether it could open while the fence was being constructed. As a parent, he would like to have his child in the school as soon as possible.

Mayor Hitchcock suggested a compromise of setting a special meeting to conduct the public hearing.

Mayor Pro Tempore Johnson stated that he would like the hearing to be limited to the specifics of this appeal and not repeat the points that were raised at the last hearing, to which Mr. Schwabauer stated that the school's appeal is in regard to one issue; however, the appeal from the neighborhood is over the entire project. He pointed out that Council could set time limits and rules for debate as a means to move along the public hearing.

MOTION:

Council Member Beckman made a motion, Hansen second, to set public hearing for September 6, 2006, to consider two appeals of the Planning Commission's site and architectural plan approval for the Vineyard Christian Middle School located at 2301 West Lodi Avenue (Appellants: Vineyard Christian Middle School and David Johnson et al., regarding File #06-SP-06).

DISCUSSION:

Council Member Mounce expressed her disappointment and added she would not expect others to postpone their City business.

Mayor Hitchcock stated she would not support the motion as she believed Council needs to respect requests from Council Members, as well as from appellants, in setting a date that works well.

VOTE:

The above motion carried by the following vote:

Ayes: Council Members – Beckman, Hansen, and Johnson

Noes: Council Members – Mounce and Mayor Hitchcock

Absent: Council Members – None

G. COMMENTS BY CITY COUNCIL MEMBERS ON NON-AGENDA ITEMS

- Council Member Beckman questioned if the Mayor's vote on the setting of the public hearing for the Vineyard Christian Middle School would affect the final vote due to the fact that she had to recuse herself previously, to which Mr. Schwabauer replied in the negative. Further, Mr. Beckman stated that he was pleased to hear that the Greenbelt Task Force is considering an AL5-type of zoning.
- Council Member Hansen stated that the San Joaquin Council of Governments (SJCOG) had a special meeting last week regarding the San Joaquin Valley Blueprint Planning Process, which would develop a cohesive regional framework involving integration of transportation, housing, land use, economic development, and environment to produce a preferred growth scenario through the year 2050. SJCOG received a \$4 million grant from the State of California to move forward with his plan, and there will be a community outreach and public involvement process. Further, Mr. Hansen reported that he, along with Robert Gross, conductor of the Lodi Community Band, and Bill Tubbs, a bagpiper from the 91st Division of the U.S. Army Reserve, will appear tomorrow on Good Day Sacramento on Channel 10 to promote the Lodi Community Band the Centennial celebration events occurring this weekend.
- Mayor Hitchcock reported on the Greenbelt Task Force meeting and congratulated Bruce Fry for bringing together the property owners in the area to discuss possible solutions. There is not complete agreement from everyone; however, there has been a compromise among the property owners, and the proposal would merge well with the City's progress toward the sphere of influence. The Task Force is looking at the plan that was brought forward by the homeowners and farmers in the area and is working together to create a more specific plan for the sphere of influence. The next meeting will be October 3, at which the consultants will be presenting further information on the subject.

H. COMMENTS BY THE CITY MANAGER ON NON-AGENDA ITEMS

None.

I. PUBLIC HEARINGS

None.

RECESS

At 8:36 p.m. Mayor Hitchcock called for a recess, and the City Council meeting reconvened at 8:48 p.m.

ACTION ON ITEM REMOVED FROM THE CONSENT CALENDAR

- E-12 "Adopt resolution authorizing the City Manager to execute a professional services agreement with Wenell Mattheis Bowe for design services for the Municipal Service Center transit vehicle maintenance facility (not to exceed \$186,700)" was ***pulled from the agenda.***

City Manager King stated that staff has been pleased over the years with the work performed by Wenell Mattheis Bowe (WMB) – it has been the architect of record for the Public Works yard for a number of years, is familiar with the physical conditions of the facility, and knows the staff. The money for this project is from a federal grant, and the funds must be committed by next summer. Considering the history of the City and this firm, staff believed it to be most expedient to recommend WMB for the work; however, upon further reflection, staff is recommending that this item be pulled from the agenda in order for staff to solicit proposals from local architectural firms.

J. COMMUNICATIONS

J-1 Claims filed against the City of Lodi – None

J-2 Appointments – None

J-3 Miscellaneous – None

K. REGULAR CALENDAR

K-1 “Provide direction with regard to a request from Mayor Hitchcock regarding consideration of a development moratorium”

City Manager King reported that there are two options pursuant to the Government Code and Land Use and Planning Law that would allow Council to impose a growth moratorium, both of which require a four-fifths vote. The first is that Council may immediately take action as an urgency measure to prohibit, for 45-days, the approval of any new development applications. Following the 45-day period, the Council would be required to hold a noticed public hearing, after which it could approve findings for protecting the public health, safety, and welfare and extend the moratorium for 10 months and 15 days. The alternative is that Council could call for a public hearing on a proposed 45-day interim ordinance to prohibit new development. Following the hearing, Council could adopt the ordinance, along with the findings, and that ordinance may then be extended for 22 months and 15 days. Two years is the longest period that a moratorium of this type could stay in place.

City Attorney Schwabauer added that, should Council take this action tonight, it would need to make findings that the public health, safety, and welfare require this action; otherwise, Council could direct staff to return at a public hearing with a proposal for the basis of the findings.

Mayor Hitchcock stated that she believed it was in the best welfare of this community if the City put the brakes on development in order to allow staff the time to review the many growth-related issues that have come before the City. Her concern was that the City did not have its General Plan in place and highlighted the following purposes of a general plan:

- It is the foundation upon which all land use decisions are to be based.
- It is a comprehensive, informational planning guide established by State law to provide a framework for making informed decisions.
- It identifies the community's land use, circulation, environmental, economic, and social goals and policies as it relates to land use and development. Currently, the City is looking at jumping over Harney Lane into an area that is outside the City's 2007 General Plan.
- It looks at the needs of the community, i.e. how much residential, industrial, office institutional, and commercial is needed. The City is allowing developers to plan an area (i.e. south of Harney Lane) where no master planning has been done.
- It is the primary tool for guiding the future development of the City.
- A comprehensive general plan formalizes a long-term vision for the physical, economic, and social evolution of the City and outlines policies, standards, and programs to guide day-to-day decisions concerning a city's development.

- It is a long-range policy document that addresses important components to a city including land use, urban design, circulation, mobility, housing, public safety, parks, recreation, and open space.

Mayor Hitchcock stated that the City is considering pieces, rather than the whole, and she believed the City would spend \$1 million for its General Plan that would already have developments committed in the areas being planned. Citizen advisory committees guide the formulation of goals, objectives, and policies of the General Plan, and to date the City has had no community input on development south of Harney Lane. A city's general plan has been described as its constitution for conservation and development and the framework within which decisions on how to grow, provide public services and facilities, and protect and enhance the community must be made. Mayor Hitchcock stated that she believed growth was not paying for itself and the City's impact fees have not been updated. She stated that the City currently charges developers \$200,000 per acre for park land and drainage basin fees, which is unrealistic, and then turns around and purchases a park or basin for \$400,000 an acre. The State is mandating large costs for wastewater disposal, yet the City has not yet determined whether it will discharge on land or to the Delta, and the ultimate cost for this should be built into the development impact fee for wastewater. The City recently received a report that it currently had a sufficient water supply to handle new development; however, the City has no delivery system for the water supply, which means the City will continue to overdraft its groundwater and lower the water table. She believed that development gets by with paying very little and that remaining costs are passed onto citizens in increased rates. San Joaquin County canceled its tax sharing agreement with the City and created a new one that cuts the City's collection of property taxes in half. This revenue is used for on-going maintenance and operations of City services. The City has been considering a municipal services district to make up the difference; however, it is not yet in place. Development is moving at such a fast pace that the City cannot put into affect the various proposals and concepts for addressing these issues. She believed the City needs to take time to ascertain the true cost of development and apportion it to the projects so that current citizens would not be burdened with increased fees and rates to pay for this development. Mayor Hitchcock expressed concern that the Growth Management Ordinance, which sets forth priority areas, is not being followed. The area south of Harney Lane is not in the priority areas, yet the project is being propelled before others who should rightly be the next to progress.

Council Member Beckman stated that staff previously indicated that Urban Reserve is within the General Plan and that the designations within the Plan comply with the new projects. Peter Pirnejad, Planning Manager, concurred and added that, once property is designated within the General Plan, it becomes part of the Plan and can be easily modified; although, increasing the boundaries is much more involved. The Planned Residential Reserve includes language that states if the area were to be constructed or developed it would need to be re-designated with another land use designation. Mr. Beckman confirmed with Mr. Pirnejad that the City is not expanding the General Plan, that all of the currently proposed projects are within the Plan, and that the City has the authority and discretion to amend it accordingly. Further, Mr. Beckman disagreed with the Mayor's characterization that the City is advancing at a growth rate that would jeopardize the welfare of the City of Lodi. He pointed out that Lodi is the slowest growing city in San Joaquin County and may be among the bottom ten slowest growing cities in California. A recent article in The Record reported that Lodi's population grew by 185, or 0.3%, according to the State Department of Finance. He believed that Lodi is more in jeopardy of growing too slowly as the City has a 2% growth cap that it has never reached. Lastly, Mr. Beckman countered that the County tax sharing agreement actually increased Lodi's share of property tax from 10% to 20% of what the County receives.

Council Member Mounce stated that her concern regarding the current growth rate is that the City continues to discuss the housing reserve, yet the west side project is not yet underway. She concurred that the City must pass on the full cost of development to developers and not onto citizens who are bearing a large enough burden. Ms. Mounce believed that the water plan is inadequate due to the fact that there is no delivery system in place. No decision has been made on the water treatment plant or the Woodbridge Irrigation District (WID) water, and the City should not continue based on assumptions. The General Plan defines what the City should be for the next 20 years, and she expressed concern that the City does not have a plan in place. She stated that every three or four houses has a "For Sale" sign, yet more houses continue to be built. She was unsure whether a growth moratorium was the answer; however, she did support the City seriously examining new growth to ensure it was not outside of the City's future vision.

Mayor Hitchcock questioned if an Environmental Impact Report (EIR) was completed for the area south of Harney Lane, to which Mr. Pirnejad replied that, when a general plan is adopted, everything that is designated must be studied. Ms. Hitchcock believed that it was not studied and that the EIR was outside of the 2007 General Plan. She further questioned if a needs study was completed for that area, to which Mr. Pirnejad replied in the negative and added that any development that were to occur in the area would require a General Plan amendment and EIR. In regard to the comment regarding slow growth, Mayor Hitchcock agreed that Lodi has not exceeded its 2% cap; however, her concern goes beyond the actual units that are being built. The City needs a plan in place to account for an inadequate fee structure and to have in place a water delivery system. Mayor Hitchcock requested clarification from the City Manager regarding the County's tax sharing agreement, to which Mr. King stated he believed the amount was less than the current tax rate areas that are currently within the City.

Council Member Beckman clarified that the decrease is from the current average of property taxes as there are varying rates of property taxes throughout the City, depending upon what year the property was annexed into the City. The current tax sharing agreement is double what it was a few years ago. Mr. Beckman added that the new projects being developed will be required to do their own EIR.

Mayor Hitchcock reiterated that her concern was that these individual EIRs were for small, separate areas, which does not consider the entire plan and needs.

Council Member Beckman questioned whether Mayor Hitchcock believed that a general EIR, which covers a broad area, is more important than a specific EIR that deals exclusively with an individual project, to which Ms. Hitchcock stated that both are necessary.

COMMENTS BY THE PUBLIC:

- Jeffrey Kirst believed that a growth moratorium was unnecessary. The general plan is still in place and the Housing Element of the General Plan was updated 22 months ago with a significant amount of community input. The Growth Management Ordinance is in place; although, the City has never met the 2% growth cap. Mr. Kirst reported that in 2005 there were 265 single-family housing permits issued; for 2006 year to date, only 42 have been issued. He believed that the development community is paying its fair share and stated that the Council now regularly updates those fees, more so than it had in the past. The consequences to implementing a growth moratorium include employment rate and decreased cash flow for the City as it would affect the collection of fees. Mr. Kirst stated that he reviewed a copy of the County tax sharing agreement and confirmed that the City was previously receiving 10% of the County's share of property tax; whereas, it now collects 20%. Mr. Kirst presented information from the League of California Cities (filed) regarding the Educational Revenue Augmentation Fund shift and how those figures are calculated. He further pointed out that the Mayor, during her tenure as a Planning Commissioner, voted "no" 98% of the time on growth-related projects, and voted "no" 95% of the time while on the City Council.

- Pat Patrick, President/CEO of the Lodi District Chamber of Commerce, stated that he represents 800 businesses in Lodi and 15,000 employees who elect a board of directors to represent them on issues, help them create a stronger local economy, and promote the community. The organization is opposed to such a moratorium. He believed that no growth was a myth and that a moratorium would begin a decline for the City. Without some residential growth, property taxes will stagnate and the City would be unable to cover the cost of doing business. Without commercial growth, sales taxes will decline. Lodi is in the middle of one of the fastest growing regions in California, and if it cannot attract consumers, those dollars will go elsewhere to support other communities. In 2003-04, Lodi was the only city in San Joaquin County that had a decrease in sales tax. In 2005, it had an increase due to the addition of Lowe's; however, that increase was the smallest of any city in San Joaquin County. The Chamber believes that a balance can be struck between economic growth and sustainable agriculture. Once property tax, sales tax, and jobs are cut, there is nothing left to provide economic buoyancy in the community. A moratorium would compromise the 600 jobs from the Blue Shield project and its promise of 1,600 future jobs.
- Dennis Sattler expressed his concern about the recent decisions made by this Council that have ended up in financial disasters, including those associated with the PCE/TCE clean up and the Electric Utility downgrading. The residents have been placed with the burden of paying for these financial mistakes. He believed it made sense to put the brakes on growth and update the General Plan. The size of the Reynolds Ranch and Delta College projects warrant a study on the lasting impact on the City and a thoroughly thought-out plan.
- Ann Cerney expressed support for a moratorium in order for the City to establish policies and to consider the entire picture, rather than each individual development, so that all developers receive equal treatment to Reynolds Ranch. She believed it was logical that the General Plan precede any action on developments and she encouraged Council to take the "time out" to establish procedures.
- Russ Munson stated that the City has had rules in place for as long as he can remember and the development community has abided by those rules. Council continues to review those policies in order for the community to grow and adapt to the conditions that exist within the City. The City Manager successfully negotiated the City's first development agreement with Reynolds Ranch, for which Council voted 3 to 2 in favor, which serves to protect the City and approve development fees that have not yet been established. A moratorium would put a stop to that. Mr. Munson expressed bewilderment that the Mayor spoke proudly of the 2% growth limit at the Greenbelt Task Force meeting, but is now taking the opposite approach. He expressed concern that putting a halt on growth until a plan is established would take years. The current plan calls for Planned Residential to the south and includes schools, parks, and traffic mitigation. He questioned what a moratorium would do for his commercial projects that have been in the planning stages for the last five years.
- Jasbir Gill expressed his shock that many of the Planning Commissioners were unfamiliar with the General Plan and that there has not been an update for 20 years. He hoped that the Council Members were appropriately educated on the General Plan so as to make well-informed decisions on behalf of this community; otherwise, he suggested that Council Members receive the necessary training.
- Michael Carouba stated that Lodi's growth problem is Stockton and he was pleased to see that positive efforts were being made by the Greenbelt Task Force; however, he believed that a moratorium was unnecessary. Mr. Carouba is a commercial real estate broker and is in the business of helping companies relocate or expand; unfortunately, Lodi does not have much in the way of infill. He believed that a moratorium would prevent the City from welcoming a major company, such as a Blue Shield-type employer, that would bring a great number of jobs to the City, and he felt that the Council should have the ability to judge each project on its own merits. The last

General Plan took four years to approve and he believed in this more litigious world today it would take much longer. He believed that to take a position that the City will not grow in commercial or residential in order to plan the area south of Harney Lane is not practical. There is a public process involved for individual developments, both at the Planning Commission and Council levels, and he reminded that Council has the opportunity to turn down a project due to inappropriate timing.

- Barbara Flockhart spoke in support of having a greenbelt between Lodi and Stockton and of increasing builders' fees to be more in line with the city of Tracy. She stated that many residents are unhappy with the three-bedroom system in calculating water rates, as well as the 38% water rate increase. Ms. Flockhart expressed concern about the \$1 million wasted every year on the WID water and about the proposed \$30 million project to bring the WID water to new homes. New development should pay for this. She suggested that if the Reynolds Ranch/Blue Shield project is approved, there should be an over crossing at Harney Lane.
- Dennis Bennett questioned how the Mayor arrived at the \$400,000 per acre cost for park land that she quoted earlier, to which Mayor Hitchcock responded that she received the information from local developers. Mr. Bennett stated that there has not been property in Lodi that has sold for \$400,000 an acre for any purpose recently for park land or residential development. A general plan is a living document that can be amended up to four times per year, and he believed that all of the property that has been proposed for possible development is within Lodi's General Plan. Land in Residential Reserve is held until it is rezoned for a particular residential zoning that is applied for and approved by the Planning Commission and Council. He stated that Lodi receives a higher rate of property tax today from new annexations than any time in recent years. Mr. Bennett disagreed with the comment made by Council Member Mounce that every third or fourth home on every block in Lodi is for sale. The housing market is extremely high and Lodi has an affordability problem, forcing young families to purchase homes in Stockton as it has less expensive housing projects. Lodi needs to focus on revenue generation by encouraging additional commercial and industrial opportunities in Lodi and increasing the employment and sales tax base; not stopping growth. If the development fees are not adequate, the City should adjust them appropriately through a nexus demonstrating the justification for the fee increase. He encouraged Council to not support a growth moratorium.
- Dennis Silber urged Council to vote in favor of a temporary development moratorium in order to allow Council and staff to carefully review its General Plan and ensure all currently proposed and future developments are in the best interest of Lodi for the long term. He expressed concern about the additional costs Lodi citizens might incur and believed the moratorium would provide staff time to examine how the City would pay for infrastructure and City services, as well as whether or not developer fees are sufficient.

Mayor Hitchcock agreed with the statements that developers are paying the required fees; however, those fees are insufficient. She expressed concern that the Growth Management Ordinance can be substituted by a development agreement without Council input. With impact fees, developers know up front what they will be paying, yet a development agreement is by negotiation and some may receive a better deal than others. Mayor Hitchcock stated that there are many cities that are land locked, as well as others that have urban growth boundaries, yet they continue to grow within and are not in decline. She did not consider herself to be a no-growth person and is very proud of being a part of the 2% growth cap; however, she was concerned that the Growth Management Ordinance and the priority areas were being replaced with development agreements, for which Council is not forming the policies. The area south of Harney Lane has not had a General Plan, comprehensive plan, or master EIR completed and it should not be piecemealed in with an expired General Plan. The Council has an ambitious plan to implement its new Plan in one year. She stated that she supports jobs and Blue Shield and would prefer that the developer sell the land to Blue Shield so that it could proceed, with the remaining development on hold until the completion of the General Plan.

Council Member Beckman requested the City Attorney to opine on the reasoning behind the four-fifths vote requirement for a growth moratorium, to which Mr. Schwabauer responded that the legislative intent may have been to address the number of challenges resulting in this type of Council action. The four-fifths vote requirement would make it more difficult to enact a moratorium, and he believed this was a compromise the building industry was willing to accept. Mr. Beckman added that he believed the significance of a four-fifths vote would indicate that a moratorium is an extreme measure to take as this action could jeopardize or harm the rights and property interests of others. He did not believe that Lodi was experiencing an extreme rate of growth that warranted the declaration of an emergency situation that the public welfare was in jeopardy and he stated that he would not support a moratorium.

Council Member Hansen stated that he was very familiar with and has a fair understanding of the General Plan, as does, he believed, all of the Council Members. He questioned if the use of a development agreement nullifies the Growth Management Ordinance and whether the Council could decide, with the use of a development agreement, to grow by more than 2%.

Mr. Schwabauer stated that Council-adopted ordinances have the power to change another ordinance; however, he believed that development agreements were not intended to make significant changes to the Growth Management Ordinance. Development agreements do not propose growth in an amount greater than that permitted by the Growth Management Ordinance; however, the one difference is the issue on how allocations are granted. The Growth Management Ordinance states that in years where there are not enough allocations, there will be an allocation process. Reynolds Ranch is proposing only to take low-density allocations; therefore, the allocation process was unnecessary as there were more than enough low-density allocations available.

Council Member Hansen stated that he was committed to the 2% growth cap and made assurances that he would not support any development agreement that included a higher growth level. He believed that the economy is the determining factor on how fast the City will grow. He recently met with an economist from Sacramento State University who has studied the issue of growth in California for over 20 years. He shared with Mr. Hansen that cities can control growth; however, they cannot stop it, and a moratorium would be devastating to this community. The economist cited Livermore as an example of a city that put a stop to growth, and after ten years the city had the worst facilities, crime, and traffic in the county. He further stated that land locked communities need an attraction to provide an infusion of money into the city, and the economist agreed that the Delta College satellite campus could be a draw for the City of Lodi, as would an increase in tourism. Mr. Hansen believed that the City's financial struggles have resulted in the slow growth rate as the City's three main funding streams (i.e. property tax, sales tax, and vehicle license fees) do not support City services. He was hopeful that the Community Facilities District concept would address this issue and that development would pay for the additional impact and cost on cities. Mr. Hansen expressed concern in delaying the decision on water percolation or treat and drink as it provides less opportunity for the City to pass those costs onto new development. Mr. Hansen believed there were serious consequences associated with a moratorium and stated he would not support the matter.

MOTION:

Mayor Pro Tempore Johnson made a motion, Beckman second, to not move forward with a growth moratorium.

DISCUSSION:

Mayor Hitchcock stated that the City may not feel the effects of growth tomorrow, but it would in the future once the proposed 4,000 homes were in place. She questioned if the City was superseding the Growth Management Ordinance by developing outside of the established priority areas, to which Mr. Schwabauer replied in the affirmative.

Council Member Mounce reported that she received information recently that the city of Stockton is number one in California on the number of foreclosures on new homes purchased in the last one to two years. She believed that a 45-day break to reassess and consider the direction of the City was reasonable and stated she would be supportive of a temporary growth moratorium.

VOTE:

The above motion carried by the following vote:

Ayes: Council Members – Beckman, Hansen, and Johnson

Noes: Council Members – Mounce and Mayor Hitchcock

Absent: Council Members – None

RECESS

At 10:46 p.m. Mayor Hitchcock called for a recess, and the City Council meeting reconvened at 10:54 p.m.

VOTE TO CONTINUE WITH THE REMAINDER OF THE MEETING

The City Council, on motion of Mayor Pro Tempore Johnson, Mounce second, unanimously voted to continue with the remainder of the meeting following the 11:00 p.m. hour.

K. REGULAR CALENDAR (Continued)

K-2 “Introduce ordinance amending Lodi Municipal Code Title 5 – Permits and Regulations – by adding Chapter 5.25, ‘Pedicabs’”

City Manager King reported that a pedicab is a bicycle with three or more wheels and a back seat used as a form of transportation. Staff was recently approached by an entrepreneur who wished to establish a pedicab business in Lodi. Upon review of the Lodi Municipal Code, it was determined that the closest regulation was the taxicab ordinance; however, there are inherent differences between taxicabs and pedicabs, and staff determined that an ordinance would need to be created to address this relatively new type of business. The City Attorney’s Office researched pedicab ordinances from a variety of cities; the proposed ordinance would require the operators to be fingerprinted and the vehicles to be inspected by the Lodi Police Department. Mr. King believed pedicabs would be a major benefit to the downtown area and provide a fun mode of transportation for those attending various events in the area.

In response to Council Member Mounce, Mr. King stated that pedicabs would be required to have seatbelts.

PUBLIC COMMENTS:

- Dennis Silvia, pedicab entrepreneur, stated that the drivers of the pedicab would also be required to follow the same rules as a bicycle rider, including wearing a helmet. He believed the pedicabs would be a unique addition to downtown; however, he did not want to specifically limit the operation to only that location and envisioned being at Hutchins Street Square, Wine and Roses, and other heavily populated attractions.

In response to Council Member Hansen, Mr. Silvia stated that presently he has one pedicab and plans to introduce the business downtown to gauge the reaction from the public. The business would then grow according to the demand. Council Member Hansen believed that the pedicabs would receive a great reaction from the public, particularly at the downtown events, and he expressed support for the ordinance.

In response to Mayor Hitchcock, Mr. Silvia stated that the hope is to be ready for the Lodi Grape Festival weekend. Initially, the cost will be up to the rider in the form of tips, after which they will arrive at a fee based on distance peddled.

Council Member Mounce commended the Silvia's on having an idea and following through by ensuring they had the appropriate permits and licenses.

MOTION:

Mayor Pro Tempore Johnson made a motion, Beckman second, to introduce Ordinance No. 1783 amending Lodi Municipal Code Title 5 – Permits and Regulations – by adding Chapter 5.25, “Pedicabs.”

DISCUSSION:

In response to Mayor Hitchcock, Deputy City Attorney Magdich stated that she researched ordinances from the cities of San Francisco, Long Beach, Santa Barbara, San Diego, Santa Monica, San Luis Obispo, and Santa Cruz.

VOTE:

The above motion carried by a unanimous vote.

- K-3 “Adopt resolution approving an alternative retirement system for part-time, seasonal, and temporary employees”

Deputy City Manager Krueger reported that the Public Agency Retirement System (PARS) is an alternative to the current retirement system (i.e. Social Security) for part-time employees, which meets federal retirement plan requirements. This alternative program is in the Internal Revenue Code as a defined contribution plan, which is beneficial to the employees as the contributions are retained for the benefit of the employees until such time that they retire or leave employment. The City currently matches the contribution that the employees make into the Social Security system for a total combined contribution of 12.4%. PARS would be a reduction from the City's share that it pays into the Social Security system, and the recommendation is that the employees assume the entire portion of the 7.5% contribution, which would result in a zero percent contribution from the City and a savings of \$60,000 without a reduction in services associated with the implementation of the plan. There are three options for transitioning into the PARS system: 1) shift all part-time employees across the board immediately into the system; 2) offer employees a choice as to which plan they would like to participate in; and 3) offer those employees who have reached 30 quarters or more in the Social Security system the option of continuing with Social Security until they are vested at 40 quarters, at which time they would be transitioned into the PARS system. Staff is recommending the third option. All new part-time employees would be enrolled in the PARS system immediately. Currently, there are four employees that have 30 or more quarters; three employees in the range of 26 to 30 quarters, and the remaining employees have less than 26 quarters. This information only takes into account employment at the City of Lodi; it does not include previous employment.

Council Member Hansen expressed concern on setting the threshold at 30 quarters and suggested a better threshold would be 20 quarters. He believed that part-time employees provided a great service and benefit to the City of Lodi and he wanted to ensure they were treated fairly.

Mr. Krueger stated that the greater number of employees who have the option to choose which system to participate in would reduce the amount of savings to the City.

MOTION / VOTE:

The City Council, on motion of Council Member Mounce, Hansen second, unanimously adopted Resolution No. 2006-161 taking the following actions with regard to an alternative retirement system for part-time, seasonal, and temporary employees, and further directed

that the threshold be amended from 30 quarters to 20 quarters for those eligible to opt for continuing with Social Security until vested or changing to the PARS system:

- Approved participation in the Public Agency Retirement System (PARS) as an alternative retirement plan in lieu of Social Security for part-time, seasonal, and temporary employees effective the first full pay period in September 2006;
- Approved the funding and contribution split whereby the City will pay administration costs and employees pay a 7.5% contribution rate; and
- Authorized the City Manager to sign the agreement for Administrative Services.

K-4 “Approve six-month budget for M&P Investments, Hartford, and Envision cases”

City Attorney Schwabauer presented the proposed budget for the next six months in the amount of \$1.94 million. Mr. Schwabauer reported that the last six month budget was \$1.96 million; the actual amount spent was significantly lower and he anticipated that the same would hold true for the new budget year. Mr. Schwabauer stated that the purpose of the budget was to provide a tool for Council to track what was being spent before it occurred.

MOTION / VOTE:

The City Council, on motion of Council Member Mounce, Beckman second, unanimously approved the six-month budget for the M&P Investments, Hartford, and Envision cases, as detailed below:

M&P Investments	\$	742,500
Hartford	\$	835,000
Envision	\$	365,000
Total		\$1,942,500.00

K-5 “Approve expenses incurred by outside counsel/consultants relative to the Environmental Abatement Program litigation and various other cases being handled by outside counsel (\$177,660.19)”

City Attorney Schwabauer reviewed expenses incurred by outside counsel/consultants as was outlined in the staff report.

MOTION / VOTE:

The City Council, on motion of Council Member Beckman, Mounce second, unanimously approved the expenses incurred by outside counsel/consultants relative to the Environmental Abatement Program litigation and various other cases being handled by outside counsel in the amount of \$177,660.19, and as detailed below:

Folger Levin & Kahn - Invoices Distribution

Matter No.	Invoice No.	Date	Description	Water Acct. Total Amount
8001	96372	6/30/2006	General Advice/Environmental Issues	470.00
8002	96378	6/30/2006	People v. M&P Investments	58,208.16 (2,935.00)
8003	96377	6/30/2006	Hartford Insurance Coverage Litigation	106,965.13 (900.00)
8008	96373	6/30/2006	City of Lodi v. Envision Law Group	5,742.30
	13486	6/30/2006	Keith O'Brien/PES Environmental, Inc.	1,012.50
	6235	5/31/2006	Peter Krasnoff, West Environmental Service	2,440.00
				<u>171,003.09</u>

Kronick Moskowitz Tiedemann & Girard - Invoices Distribution

<u>Matter No.</u>	<u>Invoice No.</u>	<u>Date</u>	<u>Description</u>	<u>Total</u>	<u>Distribution</u>
				<u>Amount</u>	<u>100351.732 Water Acct.</u>
11233.027	226714	07/25/06	Citizens for Open Govt. v. City of Lodi	2,647.88	2,647.88
11233.029	226714	07/25/06	AT&T v. City of Lodi	281.55	281.55
11233.031	226714	07/25/06	Line of Credit Opinion 2006	3,169.91	3,169.91
				<u>6,099.34</u>	<u>6,099.34</u> -

JAMS

			<u>Distribution/Water Account</u>
1170617-110	6/30/2006	JAMS Mediation Service	\$ 359.87
1180071-110	7/31/2006	JAMS Mediation Service	<u>\$ 197.89</u>
			\$ 557.76

L. ORDINANCES

None.

M. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 11:27 p.m.

ATTEST:

Jennifer M. Perrin
Interim City Clerk

**CITY OF LODI
INFORMAL INFORMATIONAL MEETING
"SHIRTSLEEVE" SESSION
CARNEGIE FORUM, 305 WEST PINE STREET
TUESDAY, SEPTEMBER 19, 2006**

An Informal Informational Meeting ("Shirtsleeve" Session) of the Lodi City Council was held Tuesday, September 19, 2006, commencing at 7:05 a.m.

A. ROLL CALL

Present: Council Members – Beckman, Hansen, Johnson, Mounce, and Mayor Hitchcock
Absent: Council Members – None
Also Present: City Manager King, Deputy City Attorney Magdich, and Deputy City Clerk Taylor

B. TOPIC(S)

B-1 "Presentation regarding playground equipment safety standards"

Parks Superintendent, Steve Dutra, shared that public playgrounds offer a great outlet for physical, emotional, social, and intellectual development of children at play, but kids play hard and can become injured. Focusing on safety in designing and installing equipment in City parks, he shared a number of statistics and mandated requirements with regard to public playgrounds in a PowerPoint presentation (filed). He stated that he and Parks Mechanic Larry Moore are Certified Playground Safety Inspectors, having completed training, extensive reading, an examination, and continued education for re-certification. He stated that during the past two decades, the US Consumer Product Safety Commission (CPSC) statistics indicate a dramatic increase in playground-related injuries, and at least 70% of these injuries occur on public playgrounds. Entrapments, falls to the surface, and equipment maintenance are factors that must be monitored as they are the responsibility of the equipment owner. Guidelines are provided with regard to age appropriateness of equipment and critical height, which considers not only the distance a child may fall but also the material on the surface located under and around the equipment. As a government agency, the City is mandated by the Health and Safety Code to comply with sections of the Handbook for Public Playground Safety #325, which presents safety information for public playground equipment, and the Standard Consumer Safety Product Specifications for the playground equipment for public use.

The American Society for Testing and Materials (ASTM) outlines nationally recognized standards for consumer safety product performance specifications for playground equipment for public use. Preventive maintenance is specified as planned programs of inspections and maintenance intended to keep equipment functioning properly and to forestall equipment failures. Public playground equipment must be designed and constructed to reduce the risk of accidents related to head and neck entrapments. Slides that are less than 48 inches tall must have an exit region height no greater than 11 inches from the protected surface; however, slides taller than 48 inches require that the exit region height be between 7 and 15 inches above the protected surface. The City is required to maintain detailed records regarding installation, inspections, maintenance, and repairs to equipment and use areas as mandated by law.

Larry Moore, Parks Division Mechanic, stated that he is responsible for the overall maintenance and inspection of 22 playground structures at 17 community locations. The Parks Division has an established playground safety program, which was developed by Mr. Dutra in 2002 based on the CPSC and ASTM guidelines. Program goals include providing quality facilities, preventing injuries, and protecting the City investment. The program calls for daily, weekly, monthly, and annual inspections. Inspections are done daily and weekly by park maintenance staff looking for inappropriate materials, vandalism, graffiti, and broken equipment. Play areas are cleaned, weeded, painted, and ground cover is raked as needed. Monthly inspections are completed by a certified playground safety inspector that walks the area, climbs equipment, looks for loose and missing hardware, checks the

protective surfacing depth, and completes preventive maintenance. Annual inspections are based on monthly inspections and include determining level of use, setting goals, preparing the budget, comparing products, and scheduling maintenance. He shared that while the City uses engineered wood fiber for surface cover, it has also used poured-in-place surfaces which perform well.

Mr. Dutra shared that 11 community parks meet current standards and 6 parks need to be addressed on some level. Emerson Park has been refurbished to meet codes based on the hard work of staff and the ability to utilize Community Development Block Grant (CDBG) funding. The original structure had a play area and swings in close proximity located near the street intersection; however, a swing bay requires a fall zone of 32 feet in clearance. The new design at Emerson Park features a swing set area separate from the play structure to meet new design criteria based on safety guidelines and laws.

Mayor Pro Tempore Johnson stated that many parks were refurbished using CDBG funds and asked where the City will get the money to replace structures that still need to be replaced but are not a part of the CDBG target area. Mr. Dutra stated that only Blakely, Hale, and Van Buskirk Parks are in the target area and that these funds can be used for refurbishing Van Buskirk Park; however, Beckman Park is outside the target area but needs to be refurbished next based on inspections. State and federal grants, community organizations, and donations can offer funding opportunities to secure approximately \$200,000 each for the remaining parks requiring completion. He shared that, while Beckman Park also needs a restroom replacement and that every effort would be made to complete these projects together, there are other projects higher on the list than the Beckman bathroom replacement at this time. He notified Council that Beckman Park playground area will be taken out of service due to safety concerns and a temporary fence will be installed to ensure public safety until the work can be completed.

City Manager King shared that, until recently, playground equipment designed to CPSC guidelines allowed cities to defend their efforts toward liability compliance by purchasing approved equipment. Everything changed to a mandated requirement when relatively new pieces of equipment did not comply with the standards of entrapment, requiring cities to make a risk management choice. Over the last several years many cities have used per capita money to replace equipment; however, the money can only be used for equipment, not park maintenance, and many times projects may require increasing work and equipment to spend more money in order to be eligible for grant funds.

Mayor Pro Tempore Johnson stated that there are minimum standards in place, and the City appears to have exceeded them in placing pour-in-place surfaces instead of wood fibers. He asked if the City is placing itself into a risk management corner by spending more than necessary in protecting users of the equipment by using pour-in-place surfaces when other communities are still using wood chips. Deputy City Attorney Magdich replied that as long as the city is meeting the standards of the Health and Safety Code and the California law requirements, it is acceptable to use either or both surfaces as determined appropriate by safety inspectors and park designers.

Mr. King stated that, while the poured-in-place surface is still being reviewed and tested for its long-term durability, replacement compound is available for repairs and pour-in versus wood chips which need raking on a consistent basis, which is a very labor intensive process. Mr. Dutra shared that Lawrence Park was the first park to receive poured-in-place surfacing through a recycled tire grant for \$25,000. He stated that it costs \$12.25 per square foot, must be sub-graded and compacted, and seal coated every five years, which is why the parks division has a supply of patching materials on hand filled with additional product.

Mr. Dutra shared that Candy Cane Park has been maintained in part by the generosity of the Soroptimist Club and that perhaps funding can continue in the future on that and other parks. Lodi Lake Park contains two structures and the Kiwanis Club and other area

organizations have provided support of parks projects – staff will continue to explore and entertain these funding options. The Lodi Lake Park (north) was completed in the late 1980s and the south playground was replaced in the late 1990s. Van Buskirk Park was modified in the late 1990s with separate areas for the play area and a swing. Blakely Park was considered sound, solid, and without rust; however, entrapments were discovered making the equipment a safety hazard. He explained that an entrapment is any opening between 3.5 inches and 9 inches, which could provide a potential hazard for a child's head or neck.

Mayor Hitchcock stated that the repairs and upgrades presented a pattern in replacement approximately every ten years and asked about the comparison of public park equipment versus that used on school campuses, which appear to have little repair or replacement. Mr. King shared that he believed it was a risk management decision in which a policy decision is made to take the calculated risk that no injuries will occur. The alternative may be to close or tear down equipment and haul it away due to a lack of funding, which could have more negative repercussions in the community than leaving it there and hoping no claims are filed.

Mayor Pro Tempore Johnson remarked that at one time the City attempted to help the school district maintain its play areas when Parks Division target areas were much larger.

Mr. Dutra summarized that seven locations and eight structures need replacement at an approximate cost of \$2 million, or \$200,000 per project. In 1999, then Governor Davis signed Assembly Bill 1055 requiring all agencies to have their play structures audited by a certified inspector, and documentation has been retained to indicate upgrades and replacement. The initial audit identifies the play components existing in the play area, their present condition, and how they measure against current laws and guidelines. It also details the layout, design, surrounding environment, handicap accessibility, and protective surfacing. Mr. Moore will be charged with determining if play structures are in compliance based on current standards, and results of the audit will be provided to Council for information in making future decisions.

In response to Mayor Hitchcock, Mr. Dutra explained that the standards were originally drafted in the late 1970s by a group of architects, play equipment manufacturing representatives, and parks professionals. Based on their expertise and field experience, the group provided feedback to the CPSC, which developed the standards for the playgrounds, and since then the California Health and Safety Code has adopted laws based on these guidelines as criteria for the standards.

Mr. King stated that as society has evolved, accidents no longer occur - someone is at fault. As a result, public agencies determined that a standard was needed and guidelines were developed for playground safety maintenance to include inspections to defend against liability claims. The California Parks and Recreation Society and some playground equipment manufacturers advocated that the standard be moved to a mandatory requirement and that inspections be completed by trained and certified inspectors. The City can do a better job in looking at both preventive maintenance and funding for replacement to replace things on a regular basis because things wear down and standards change. Staff takes seriously its obligation to provide safe equipment for children to play on while complying with a reasonable plan for supporting policy makers in preparing for maintenance and replacement of playground equipment and facilities.

Deputy City Attorney Magdich shared that there is a balance between risk and cost, stating that only one park playground-related claim was filed in the past year for a broken arm, which occurred at Peterson Park (east), which is a park that is in complete compliance.

C. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

None.

Continued September 19, 2006

D. ADJOURNMENT

No action was taken by the City Council. The meeting was adjourned at 8:04 a.m.

ATTEST:

Jacqueline L. Taylor
Deputy City Clerk



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Approve plans and specifications and authorize advertisement for bids for roof replacement improvements at Legion Park, 835 S. Hutchins Street and Kofu Park, 1145 S. Ham Lane

MEETING DATE: October 18, 2006

PREPARED BY: Parks and Recreation Director

RECOMMENDED ACTION: Approve plans and specifications and authorize advertisement for bids for roof replacement improvements at Legion Park, 835 S. Hutchins Street, and Kofu Park, 1145 S. Ham Lane.

BACKGROUND INFORMATION: The project was included in the Parks and Recreation Department 2000 Park Bond Act Per Capita Grant program request, which was presented and approved by City Council at its regular meeting on January 18, 2006.

The Legion Community Building work consists of removal and disposal of the existing flat roof structure, existing steel support columns and flat roof decking overhangs. New work includes:

- Wood framing of a pitched roof and installation of a standing seam finished roof
- Electrical
- Heating Ventilation and Air Conditioning (HVAC)
- Plumbing
- Concrete
- Rough and finish carpentry

The Kofu Community Building work consists of removal and disposal of the existing shake roof material, and roofing paper from the existing structure. New work includes:

- Dry rot replacement
- Installation of a new composition roof system
- Other related work shown on the plans

Plans and specifications are on file in the Parks and Recreation office.

FISCAL IMPACT: There is no direct impact to the Parks and Recreation Department budget for the installation of the new roof replacements. The 2000 Park Bond Act Per Capita Grant program will be supporting the installation of this project in its entirety.

APPROVED: _____
Blair King, City Manager

FUNDING:	Legion Roof Improvements:	\$ 73,000.00
	Kofu Roof Improvements:	\$ 18,000.00
	Engineer's Estimate:	\$ 91,000.00
	2000 Park Bond Act Per Capita Grant Allocation:	\$130,543.00
	(Legion Park - \$83,903.00 / Kofu Park - \$46,640.00)	

Ruby Paiste, Financial Services Manager

Tony C. Goehring
Parks and Recreation Director

Prepared by Steve Virrey, Park Project Coordinator

cc: Susan Bjork, Management Analyst
Steve Dutra, Parks Superintendent
Wes Fujitani, Sr. Civil Engineer
Joel Harris, Purchasing Officer



CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Adopt Resolution Awarding Contract for Traffic Signal Preventive Maintenance and Repair Program, Fiscal Year 2006/07, to Republic ITS, of Novato (\$18,894), and Appropriating Funds for On-Call Traffic Signal Repairs (\$20,000)

MEETING DATE: October 18, 2006

PREPARED BY: Public Works Director

RECOMMENDED ACTION: Adopt a resolution awarding the contract for the above project to Republic ITS, of Novato, in the amount of \$18,894 and appropriating funds for traffic signal repairs in the amount of \$20,000.

BACKGROUND INFORMATION: The project includes providing preventive maintenance and repair services for the forty-seven City-maintained traffic signal and lighting systems. The specifications require the contractor to provide signal maintenance inspections at 120-day intervals and to annually test the traffic monitors.

Specifications for this project were approved on September 6, 2006. On September 27, 2006, the City received one bid for this project from the current contractor for the City. We are confident in their workmanship and recommend that Council award the contract.

The Department has two electrician positions who maintain water wells, storm pumps, and White Slough electrical equipment and provide electrical support for the City's buildings and facilities. Traffic signal preventive maintenance has been contracted out in recent years due to workload. Signal repairs, as needed, were generally done by City staff. However, in June 2006, one electrician relocated to another company. Staff recommends Council appropriate additional funds for unforeseen repairs if the City's electrician is unable to perform the signal repair work. The project specifications included a bid item for unscheduled repair work. We do intend to fill the electrician vacancy, but that process will take some time.

In addition, staff recommends the City Manager be authorized to extend the contract for one year if it is mutually agreed upon by both parties and advantageous to the City.

Bidder	Location	Bid	Repair Labor Only (Price per Hour)
Engineer's Estimate		\$20,210	\$90
Republic ITS	Novato	\$18,894	\$110

FISCAL IMPACT: Staff will annually request funding for this program.

FUNDING AVAILABLE: Measure K included for Preventive Signal Maintenance in FY 06/07 budget. Appropriate additional \$20,000 in Measure K funds for unforeseen traffic signal repairs.

Ruby Paiste, Financial Services Manager

Richard C. Prima, Jr.
Public Works Director

Prepared by Paula Fernandez, Senior Traffic Engineer

cc: City Attorney
City Engineer
Purchasing Officer

Street Superintendent
Assistant Street Superintendent

Technical Services Manager Kerekes
Senior Traffic Engineer

APPROVED: _____
Blair King, City Manager

A RESOLUTION OF THE LODI CITY COUNCIL AWARDING THE
CONTRACT FOR TRAFFIC SIGNAL PREVENTIVE MAINTENANCE
AND REPAIR PROGRAM, FISCAL YEAR 2006-07, AND FURTHER
APPROPRIATING FUNDS FOR ON-CALL TRAFFIC SIGNAL REPAIRS

WHEREAS, in answer to notice duly published in accordance with law and the order of this City Council, sealed bids were received and publicly opened on September 27, 2006, at 11:00 a.m. for Traffic Signal Preventive Maintenance and Repair Program, Fiscal Year 2006-07, for the forty-seven City-maintained City Traffic Signal Systems, described in the specifications, therefore approved by the City Council on September 6, 2006; and

WHEREAS, said bids have been compared, checked, and tabulated and a report thereof filed with the City Manager as follows:

Bidder/Location	Bid	Repair /Labor Only (Price Per Hour)
Engineer's Estimate	\$20,210	\$ 90
Republic Electric, Novato	\$18,894	\$110

WHEREAS, staff recommends that the contract be awarded to Republic ITS of Novato in the amount of \$18,894, and that an additional \$20,000 in Measure K funds be appropriated for unforeseen traffic signal repairs; and

WHEREAS, staff further recommends that the City Manager be authorized to extend the contract for an additional one-year period if mutually agreed upon by both parties.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council hereby awards the contract for Traffic Signal Preventive Maintenance and Repair Program, Fiscal Year 2006-07, for the forty-seven City maintained Traffic Signal Systems, to Republic ITS, of Novato, California in the amount of \$18,894; and

BE IT FURTHER RESOLVED that the Lodi City Council hereby appropriates an additional \$20,000 in Measure K funds for unforeseen traffic signal repairs; and

BE IT FURTHER RESOLVED, that the City Manager is hereby authorized to extend the contract for an additional one-year period if mutually agreed upon by both parties.

Dated: October 18, 2006

I hereby certify that Resolution No. 2006-_____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held October 18, 2006, by the following vote:

AYES: COUNCIL MEMBERS –
NOES: COUNCIL MEMBERS –
ABSENT: COUNCIL MEMBERS –
ABSTAIN: COUNCIL MEMBERS –

JENNIFER M. PERRIN
Interim City Clerk

2006-_____



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Adopt Resolution Authorizing Fee Payment Agreement for
2223 West Kettleman Lane

MEETING DATE: October 18, 2006

PREPARED BY: Public Works Director

RECOMMENDED ACTION: Adopt a resolution approving a fee payment agreement for 2223 West Kettleman Lane and authorizing the City Manager and City Clerk to execute the standard fee payment agreement on behalf of the City.

BACKGROUND INFORMATION: The Lodi First Nazarene Church located at 2223 West Kettleman Lane is requesting City wastewater and storm drainage services be provided to the parcel. The use of the church facilities recently restarted after a period of dormancy. Payment of Development Impact Mitigation Fees as set forth in Title 15, Chapter 15.64 of the Lodi Municipal Code (\$37,675.80), Kettleman Lift Station Fee (\$19,200.05), and Tienda Drive Improvement Reimbursement (\$8,863.74) is required for the services to be provided. The total amount of the fees is \$65,739.59.

The church's existing septic system has recently failed, and they are requesting an emergency connection to the City's wastewater collection system and, at the same time, connection to the City's storm drainage system is being requested. The church has expressed their willingness to pay the required fees but request that they be allowed to pay the fees over time at a rate of approximately \$1,000 per month (see attached Exhibit A). Staff has prepared a fee payment agreement for the required fees with the term of 72 months and monthly payments of \$1,087.94 at an interest rate of 5.95% (LAIF rate plus 1%).

The standard fee payment agreement provides for full payment upon sale or transfer of the property. Any costs associated with the default of the agreement are recoverable and paid by the owner. The agreement is bound to the land and is to be recorded.

The Church has paid the fee payment agreement preparation fee (\$1,646.00). Staff feels the request for the fee payment agreement is reasonable and recommends the Council approve the agreement.

FISCAL IMPACT: The fee payment agreement will lock-in the current fees which are subject to annual adjustment. The exact amount of the adjusted fees is not known at this time but the amount may be offset by the interest payment.

FUNDING AVAILABLE: Not applicable.

Richard C. Prima, Jr.
Public Works Director

Prepared by Lyman Chang, Associate Civil Engineer
RCP/LC/pmf
Attachment

cc: Lyman Chang, Associate Civil Engineer
First Church of Nazarene

Rebecca Areida, Management Analyst

APPROVED: _____
Blair King, City Manager

FEE PAYMENT AMORTIZATION SCHEDULE

Lodi First Church of Nazarene
2223 W. Kettleman Lane
(APN 027-410-16)

Total Fees: \$65,739.59

Interest Rate: 5.95% (4.95% LAIF rate plus 1%)

Term: 6 years

Payment No.	Unpaid Balance	Payment	Principal	Interest
1	\$65,739.59	\$1,087.94	\$761.98	\$325.96
2	\$64,977.61	\$1,087.94	\$765.76	\$322.18
3	\$64,211.84	\$1,087.94	\$769.56	\$318.38
4	\$63,442.28	\$1,087.94	\$773.37	\$314.57
5	\$62,668.90	\$1,087.94	\$777.21	\$310.73
6	\$61,891.69	\$1,087.94	\$781.06	\$306.88
7	\$61,110.63	\$1,087.94	\$784.93	\$303.01
8	\$60,325.69	\$1,087.94	\$788.83	\$299.11
9	\$59,536.86	\$1,087.94	\$792.74	\$295.20
10	\$58,744.11	\$1,087.94	\$796.67	\$291.27
11	\$57,947.44	\$1,087.94	\$800.62	\$287.32
12	\$57,146.82	\$1,087.94	\$804.59	\$283.35
13	\$56,342.22	\$1,087.94	\$808.58	\$279.36
14	\$55,533.64	\$1,087.94	\$812.59	\$275.35
15	\$54,721.05	\$1,087.94	\$816.61	\$271.33
16	\$53,904.43	\$1,087.94	\$820.66	\$267.28
17	\$53,083.77	\$1,087.94	\$824.73	\$263.21
18	\$52,259.03	\$1,087.94	\$828.82	\$259.12
19	\$51,430.21	\$1,087.94	\$832.93	\$255.01
20	\$50,597.28	\$1,087.94	\$837.06	\$250.88
21	\$49,760.21	\$1,087.94	\$841.21	\$246.73
22	\$48,919.00	\$1,087.94	\$845.38	\$242.56
23	\$48,073.61	\$1,087.94	\$849.57	\$238.37
24	\$47,224.04	\$1,087.94	\$853.79	\$234.15
25	\$46,370.25	\$1,087.94	\$858.02	\$229.92
26	\$45,512.22	\$1,087.94	\$862.28	\$225.66
27	\$44,649.94	\$1,087.94	\$866.55	\$221.39
28	\$43,783.38	\$1,087.94	\$870.85	\$217.09
29	\$42,912.53	\$1,087.94	\$875.17	\$212.77
30	\$42,037.36	\$1,087.94	\$879.50	\$208.44
31	\$41,157.85	\$1,087.94	\$883.87	\$204.07
32	\$40,273.98	\$1,087.94	\$888.25	\$199.69
33	\$39,385.72	\$1,087.94	\$892.65	\$195.29
34	\$38,493.07	\$1,087.94	\$897.08	\$190.86
35	\$37,595.99	\$1,087.94	\$901.53	\$186.41
36	\$36,694.45	\$1,087.94	\$906.00	\$181.94
37	\$35,788.45	\$1,087.94	\$910.49	\$177.45
38	\$34,877.95	\$1,087.94	\$915.00	\$172.94
39	\$33,962.95	\$1,087.94	\$919.54	\$168.40
40	\$33,043.41	\$1,087.94	\$924.10	\$163.84

EXHIBIT A

Payment No.	Unpaid Balance	Payment	Principal	Interest
41	\$32,119.30	\$1,087.94	\$928.68	\$159.26
42	\$31,190.62	\$1,087.94	\$933.29	\$154.65
43	\$30,257.33	\$1,087.94	\$937.91	\$150.03
44	\$29,319.41	\$1,087.94	\$942.56	\$145.38
45	\$28,376.85	\$1,087.94	\$947.24	\$140.70
46	\$27,429.60	\$1,087.94	\$951.93	\$136.01
47	\$26,477.67	\$1,087.94	\$956.65	\$131.29
48	\$25,521.02	\$1,087.94	\$961.40	\$126.54
49	\$24,559.61	\$1,087.94	\$966.17	\$121.77
50	\$23,593.44	\$1,087.94	\$970.96	\$116.98
51	\$22,622.47	\$1,087.94	\$975.77	\$112.17
52	\$21,646.70	\$1,087.94	\$980.61	\$107.33
53	\$20,666.09	\$1,087.94	\$985.47	\$102.47
54	\$19,680.61	\$1,087.94	\$990.36	\$97.58
55	\$18,690.25	\$1,087.94	\$995.27	\$92.67
56	\$17,694.97	\$1,087.94	\$1,000.20	\$87.74
57	\$16,694.77	\$1,087.94	\$1,005.16	\$82.78
58	\$15,689.61	\$1,087.94	\$1,010.15	\$77.79
59	\$14,679.45	\$1,087.94	\$1,015.15	\$72.79
60	\$13,664.30	\$1,087.94	\$1,020.19	\$67.75
61	\$12,644.10	\$1,087.94	\$1,025.25	\$62.69
62	\$11,618.85	\$1,087.94	\$1,030.33	\$57.61
63	\$10,588.52	\$1,087.94	\$1,035.44	\$52.50
64	\$9,553.07	\$1,087.94	\$1,040.57	\$47.37
65	\$8,512.50	\$1,087.94	\$1,045.73	\$42.21
66	\$7,466.76	\$1,087.94	\$1,050.92	\$37.02
67	\$6,415.84	\$1,087.94	\$1,056.13	\$31.81
68	\$5,359.71	\$1,087.94	\$1,061.36	\$26.58
69	\$4,298.34	\$1,087.94	\$1,066.63	\$21.31
70	\$3,231.71	\$1,087.94	\$1,071.92	\$16.02
71	\$2,159.79	\$1,087.94	\$1,077.23	\$10.71
72	\$1,082.55	\$1,087.94	\$1,082.57	\$5.37

RESOLUTION NO. 2006-_____

A RESOLUTION OF THE LODI CITY COUNCIL
AUTHORIZING FEE PAYMENT AGREEMENT
FOR 2223 WEST KETTLEMAN LANE

=====

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby authorize the City Manager to execute Fee Payment Agreement with the Lodi First Nazarene Church to provide City wastewater and storm drainage services to the parcel located at 2223 West Kettleman Lane.

Dated: October 18, 2006

=====

I hereby certify that Resolution No. 2006-_____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held October 18, 2006, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

JENNIFER M. PERRIN
Interim City Clerk

2006-_____



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Adopt Resolution Approving Hold Harmless Agreement with Lodi Unified School District for Temporary Placement of Six Portable Classrooms on North Grape Bowl Parking Lot

MEETING DATE: October 18, 2006

PREPARED BY: Public Works Director

RECOMMENDED ACTION: Adopt a resolution approving the Hold Harmless Agreement (Exhibit A) with Lodi Unified School District for the temporary placement of six portable classrooms on the north Grape Bowl parking lot.

BACKGROUND INFORMATION: On September 22, 2006, Lodi Unified School District (LUSD) contacted and worked with Public Works and Parks and Recreation Department staff to obtain emergency approval for the temporary placement of six modular classrooms on the north Grape Bowl parking lot (see Exhibit B). The installation of temporary classrooms was necessary due to the discovery of mold in six classroom structures at Lawrence School that had to be immediately removed from service so emergency mold remediation measures could be initiated.

The temporary classrooms were installed at the north Grape Bowl parking lot on September 23 to 24, 2006. The installation included the placement of underground electrical conduit from the Lawrence School power supply and the placement of temporary chain link fence surrounding the classrooms and isolating them from the parking lot. Given the emergency situation and the short-term nature of the use, the City Attorney's office and Community Development Department concurred.

LUSD is planning that the classrooms will remain on the parking lot until June 15, 2007. From the City's perspective, this will not interfere with any planned activities or uses in the area. Upon removal of the temporary facilities, the electrical conductors will be removed and the conduit will be abandoned in place. The pavement and concrete surfaces will be restored to like or better condition. There are no costs to the City for this temporary use. LUSD is not being charged for the use of the parking lot.

The Hold Harmless Agreement provides that LUSD will indemnify and hold the City harmless from liability of any nature arising from LUSD's use of the property or from damage that may occur due to the City's entry onto the parking lot to work on City facilities in the area. An insurance certificate naming the City as an additional insured is also required. An insurance certificate having an effective date of September 22, 2006, has been provided and will remain in force for the duration of LUSD's occupation of the area. The Hold Harmless Agreement will be recorded at the San Joaquin County Recorder's Office. LUSD is paying all recording, encroachment permit, and insurance fees.

Parks and Recreation and Public Works staff recommend that the Hold Harmless Agreement be approved to protect the City from liability.

FISCAL IMPACT: Not applicable.

FUNDING AVAILABLE: Not applicable.

Richard C. Prima, Jr.
Public Works Director

Prepared by Jeannie Matsumoto, Senior Engineering Technician

Attachments

cc: Steve Schwabauer, City Attorney

Randy Hatch, Community Development Director

APPROVED: _____
Blair King, City Manager

WHEN RECORDED, RETURN TO:

City Clerk
City of Lodi
221 West Pine Street
Lodi, CA 95240

HOLD HARMLESS AGREEMENT

THIS AGREEMENT is made and entered into by and between the CITY OF LODI, hereinafter referred to as "City" and Lodi Unified School District, hereinafter referred to as "Owner".

RECITALS:

City is the owner of that certain real property situated in the City of Lodi, County of San Joaquin, known as the "Lodi Grape Bowl", 221 Lawrence Avenue (APN 041-240-27), and described as follows:

A tract of land situated in the County of San Joaquin, State of California, and being a portion of "Map No. 2, Lawrence Homestead Addition" filed August 10, 1922, in Book of Maps, Volume 10, page 59, San Joaquin County Records, and more particularly described as follows, to-wit:
Commencing at an iron pipe at the intersection of the East line of Stockton Street with the North line of Lawrence Avenue as shown on said Map No. 2 of Lawrence Homestead Addition; thence S 89°06' E, along the North line of Lawrence Avenue, 946.43 feet; thence N. 00°37' E, 711.82 feet; thence N. 89°06' W, 895.63 feet to a point in the East line of Stockton Street; thence along the East line of Stockton Street, S 4°42' W, 713.4 feet to the point of beginning, and containing 15.05 acres;
SAVE AND EXCEPT that portion lying in the realigned Lawrence Avenue.

A Structural Encroachment Permit No. 2006-166 has been issued for the temporary placement of portable modular buildings in a portion of the "Lodi Grape Bowl" northeast parking lot adjacent to the Lawrence School site. The modular units are temporary provisions for the relocation of students during the restoration of Lawrence School classrooms. Owner has requested that a structural encroachment permit be issued to allow the placement of six portable modular buildings, each 24 feet by 40 feet, including underground conduit servicing the portable classrooms, all as shown on the attached Exhibit "A".

NOW THEREFORE, in exchange for the issuance of a structural encroachment permit to allow the temporary placement of the modular buildings and electrical services, Owner does hereby agree as follows:

1. Owner agrees to save, defend, indemnify and hold harmless the City of Lodi, its' officers, agents and employees, from liability of any nature whatsoever arising from Owner's use or occupation of the Lodi Grape Bowl property referenced above. An additional insured certificate of insurance for the City of Lodi is required and will be maintained in duration of occupied use.
2. Owner further agrees to save, defend, indemnify and hold harmless the City of Lodi, its' officers, agents and employees from damage of any sort occasioned by the City's necessary entry upon Lodi Grape Bowl parking lot referenced above for the purpose of emergency work at those facilities.
3. Owner specifically waives consequential damages, damages for inverse condemnation or for any reduction to the value of the subject property based on the existence of the structural encroachment permit, waiver, or hold harmless executed in connection therewith.

4. Owner further agrees that for non-emergency work at the portion of Lodi Grape Bowl parking lot, Owner at his sole expense will give prompt access to the City of Lodi for the purpose of non-emergency work on the property thereon. Further, if required, Owner will move at Owner's cost and expense the necessary structures required to permit the City of Lodi to perform their non-emergency work.
5. Owner agrees that the structural encroachment use shall terminate upon the earlier of completion, Lawrence School classroom restoration or date of June 15, 2007.
6. Owner agrees to restoration of occupied portion of the Lodi Grape Bowl parking lot at the termination of required use.
7. This agreement shall run with the land and be binding on the Owner, its heirs, successors or assigns.
8. The terms of the Hold Harmless Agreement are acceptable to the City of Lodi.
9. A copy of the Agreement shall be recorded in the office of the San Joaquin County Recorder, P. O. Box 1968, Stockton, California 95201-1968.

IN WITNESS WHEREOF, the parties hereto have set their hands the day, month and year appearing opposite their names.

CITY OF LODI, a Municipal Corporation

Dated: _____ 2006

By: _____
Blair King, City Manager

Attest: _____
Jennifer P. Perrin, Interim City Clerk

LODI UNIFIED SCHOOL DISTRICT, Owner

Dated: _____ 2006

Approved as to form: _____
D. Stephen Schwabauer
City Attorney

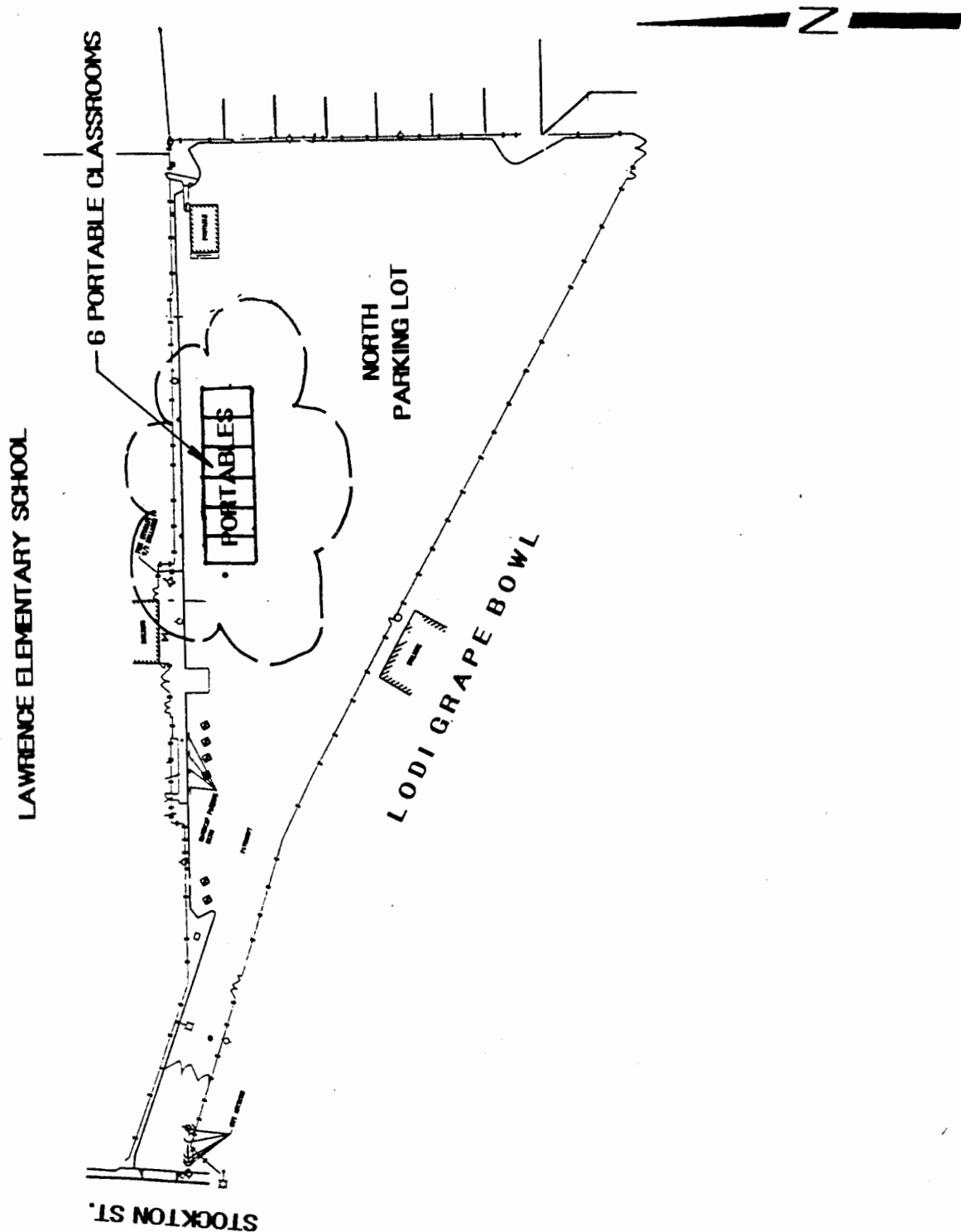
Dated: _____ 2006



CITY OF LODI

PUBLIC WORKS DEPARTMENT

EXHIBIT B



RESOLUTION NO. 2006-_____

A RESOLUTION OF THE LODI CITY COUNCIL
APPROVING HOLD HARMLESS AGREEMENT WITH
LODI UNIFIED SCHOOL DISTRICT FOR TEMPORARY
PLACEMENT OF SIX PORTABLE CLASSROOMS ON
NORTH GRAPE BOWL PARKING LOT

=====

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby approve a Hold Harmless Agreement between the City of Lodi and Lodi Unified School, District for temporary placement of six portable classrooms on North Grape Bowl Parking Lot; and

BE IT FURTHER RESOLVED, that the City Manager is hereby authorized and directed to execute said Hold Harmless Agreement on behalf of the City of Lodi; and

BE IT FURTHER RESOLVED that this temporary use will terminate on June 15, 2007.

Dated: October 18, 2006

=====

I hereby certify that Resolution No. 2006-_____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held October 18, 2006, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

JENNIFER M. PERRIN
Interim City Clerk

2006-_____



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Adopt resolution authorizing the City Manager to enter into a professional services agreement with Power Engineers, Inc., of Hailey ID, for Engineering and Design of the scaled-back Rehabilitation of Killelea Substation, and to reject all other design/engineering proposals (\$115,819) (EUD)

MEETING DATE: October 18, 2006

PREPARED BY: Electric Utility Director

RECOMMENDED ACTION: Authorize the City Manager to enter into a professional services agreement with Power Engineers, Inc., of Hailey ID, for engineering and design of the scaled-back rehabilitation of Killelea Substation and to reject all other engineering/design proposals for this project.

BACKGROUND INFORMATION: On May 3, 2006, the City Council adopted Resolution No. 2006-83 to authorize, among other tasks, the commencement of work with Power Engineers, Inc. of Hailey, ID to re-scope, engineer, design and construct a scaled-back rehabilitation project for Electric Utility Department's (EUD) Killelea Substation (located at Cherokee and Lodi).

Power Engineers, Inc. engineered and designed the original project to demolish and rebuild the Killelea Substation. Following City Council approval of a scaled-back rehabilitation project, EUD worked for several months to refine the design, technical/performance criteria, and scope of engineering work for the scaled-back project. When Power Engineers was contacted to perform the engineering/design of the scaled-back project, their workload and personnel availability did not allow them to meet EUD's desired schedule to complete the project (June, 2007).

As a back-up plan and to keep the project moving forward, EUD issued a Request for Proposals (RFP) to seven other regional engineering firms to solicit their interest/bids in design/engineering for the project. Three companies responded with the following price proposals:

Electrical Power Systems, Inc.	\$150,695.25
Auriga Corporation	\$188,400.00
Vega Engineering, Inc.	\$369,407.00

Recently, Power Engineers, Inc. advised EUD Staff that their backlog had eased and that they would be able to complete the project based on the updated scope of work and a revised schedule (project completion goal of May 2008) for a price of \$115,819. Power Engineers, Inc. did not submit a proposal in response to the RFP.

Lodi Municipal Code Section 3.20.075 exempts from the bidding process the award of engineering services, providing that such awards be based instead on "professional qualifications and experience, quality of service, past performance, and negotiated prices." Power Engineers, Inc. is well qualified for the proposed work, has extensive knowledge of EUD's electric system and the Killelea Substation as a result of past projects, and has performed well on previous jobs. Further, Power's proposal is significantly less expensive on this project than the three other qualified companies that submitted proposals.

APPROVED: _____
Blair King, City Manager

Adopt a resolution authorizing the City Manager: to enter into a professional services agreement with Power Engineers, Inc., of Hailey, ID, for engineering and design of the scaled-back rehabilitation of Killelea Substation and to reject all other design/engineering proposals (\$115,819) (EUD)
October 18, 2006
Page 2 of 2

It is recommended that Power Engineers, Inc., of Hailey ID, receive the award to perform engineering and design services for the Killelea Substation Scaled-Back Project and all other proposals be rejected. This firm is familiar with the rehabilitation project since they originally designed the larger Killelea Substation reconstruction project.

FISCAL IMPACT: The recommended award to Power Engineers, Inc. (\$115,819) is higher than the redesign estimate of \$61,000 included in EUD's earlier cost projections.

FUNDING AVAILABLE: Bond proceeds are allocated in Account No. 161677 for the project in the amount of \$3,678,444. Any necessary change in total project costs will be addressed prior to the construction phase of the project.

Ruby Paiste, Financial Services Manager

George F. Morrow
Electric Utility Director

PREPARED BY: Demy Bucaneg, Jr., P.E., Manager, Engineering and Operations

GFM/DB/lst

Attachment

c: City Attorney

**AGREEMENT FOR THE PROVISION
OF PROFESSIONAL SERVICES**

Engineer: POWER Engineers, Inc.
3940 Glenbrook Drive
Hailey, Idaho 83333
(208) 788-3456
(208) 788-2082 (fax)

Client: City of Lodi Electric
1331 South Ham Lane
Lodi, CA 95242
(209) 333-6811
(209) 339-0851 (fax)

Project Name: Killelea Substation Scaled-Back Project

Project Location: Lodi, CA

POWER Project Number: 111259

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POWER ENGINEERS, INC.

3940 GLENBROOK DR. / P.O. BOX 1066

HAILEY, ID 83333

Page **i** of 6

PHONE (208) 788-3456

FAX (208) 788-2082

AGREEMENT FOR THE PROVISION OF PROFESSIONAL SERVICES

This Agreement for the Provision of Professional Services ("Agreement"), is entered into and effective this 2nd day of October, 2006, by and between POWER Engineers, Inc. (hereinafter "POWER") with its principal place of business at 3940 Glenbrook Drive, Hailey, Idaho 83333, and City of Lodi (hereinafter "Client") with its principal place of business at 1331 South Ham Lane, Lodi, California 95242

SECTION 1: PERFORMANCE OF SERVICES

1.1 Scope Of Services

- (a) **Project Description.** The project for which the services will be performed is generally described as: Engineering services for the Killelea Substation Scaled Back Project ("Project").
- (b) **Services.** POWER shall perform the scope of services as outlined in Exhibit "A" ("Task Outline").
- (c) **Location of Project.** The Project is located in the state of California.
- (d) **Contract Documents and Exhibits.** The following Exhibits are attached hereto and incorporated herein by this reference. This Agreement and the Exhibits shall be referred to as the "Contract Documents." In the event of any conflict, inconsistency or ambiguity between or among the Contract Documents, this Agreement shall govern and shall be interpreted in the following order of precedence:
 - i. This Agreement
 - ii. Exhibit "A" - POWER's Letter Proposal, dated October 2, 2006 (or its revision, as may be agreed by the parties)

1.2 Schedule

The Services shall be completed in accordance with the Schedule outlined in Exhibit "A".

1.3 Standard Of Care

POWER represents that it will perform its services in accordance with generally accepted professional practices existing at the time of performance for the locality where the services are performed. NO OTHER REPRESENTATION, EXPRESS OR IMPLIED, IS MADE OR INTENDED BY THE RENDERING OF THE SERVICES PROVIDED.

1.4 Authorization To Perform

POWER represents it is appropriately licensed and registered to perform its Services in the location(s) contemplated by this Agreement.

1.5 Site Observation

If required within the scope of POWER's Services, POWER shall make visits to the site at intervals appropriate to the various stages of construction as POWER deems necessary in order to observe the progress of Contractor(s)' work. POWER shall not, during such visits or as a result of such observations of Contractor(s)' work in progress, supervise, direct or have control over Contractor(s)' work. POWER shall not have any authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected by Contractor(s), for safety precautions and programs incident to the work of Contractor(s) or for any failure of Contractor(s) to comply with laws, rules, regulations, ordinances, codes or orders applicable to Contractor(s) furnishing and performing their Work. Accordingly, POWER can neither guarantee the performance of the construction contracts by Contractor(s) nor assume responsibility for Contractor(s)' failure to furnish and perform their work in accordance with the Contract Documents.

It is understood and agreed that POWER shall have no constructive use or control of Client's site, and therefore shall have no responsibility whatsoever for construction site safety. Such responsibility has been wholly vested in the general contractor.

SECTION 2: CLIENT RESPONSIBILITIES

Client shall timely provide all criteria and information as may be identified by POWER. POWER may use such information, requirements, reports, data, surveys and instructions in performing its Services and is entitled to rely upon the accuracy and completion thereof. Client shall designate a person to act with authority on Client's behalf with respect to all aspects of the project. Client shall examine and respond promptly to POWER's submittals and requests. Client shall give prompt written notice to POWER whenever Client observes or otherwise becomes aware of any defect in the Work.

SECTION 3: COMPENSATION

In consideration for the Services performed by POWER, Client shall pay POWER the compensation as set forth in the Budget in Exhibit "A" hereto ("Contract Price"). Invoices will be submitted by POWER periodically, approximately once a month and are due within thirty (30) calendar days of invoice date. If Client objects to all or any portion of an invoice, Client shall notify POWER within seven (7) calendar days of invoice date, identify the cause of disagreement, and pay when due that portion of the invoice not in dispute. All outstanding balances will accrue a finance charge of 1.0% per month for each month the invoice is outstanding.

With the exception of sales tax specifically relating to procurement, POWER shall pay its appropriate taxes, fees or assessments imposed by local, state, or federal government in effect at the time POWER renders its professional services. Any taxes, fees, or assessments enacted by local, state, or federal government subsequent to the date of this Agreement, will be added to amounts due to POWER under this Agreement.

SECTION 4: DELAYS

POWER shall not be responsible for delays caused by factors beyond POWER's reasonable control, including but not limited to delays because of strikes, lockouts, work slowdowns or stoppages, accidents, acts of God, failure of any governmental or other regulatory authority to act in a timely manner, failure of the Client to furnish timely information or approve or disapprove of POWER's Services or work product promptly, or delays caused by faulty performance by the Client or by contractors of any level. When such delays beyond POWER's reasonable control occur, the Client agrees that POWER shall not be responsible for any damages, nor shall POWER be deemed to be in default of this Agreement. In the event of such delay, the Schedule shall be extended for a period of time equal to such delay and POWER shall be compensated for any costs, expenses or damages incurred as a result of such delay.

SECTION 5: CHANGES IN THE SCOPE OF WORK

5.1 Change Orders

- (a) Client, without invalidating this Agreement, may order changes in the scope of work consisting of additions, deletions, or other revisions, POWER's compensation and the design completion date being adjusted accordingly. All such changes in the Project shall be authorized by Change Order, signed by Client and POWER. POWER shall not be required to perform out-of-scope or extra work without its written approval.
- (b) A Change Order is a written order to POWER, signed by the Client (or its authorized agent) and POWER, issued after the execution of this Agreement, authorizing an addition, deletion, or revision in the Services or an adjustment in the Contract Price or the Schedule.
- (c) The increase or decrease in the Contract Price and change in Schedule resulting from a change in the Project shall be determined by mutual agreement.
- (d) If the parties are unable to agree to such change in POWER's Contract Price, POWER, upon receipt of a written order signed by Client, shall promptly proceed with the Services involved. The cost of such additional Services shall then be determined on the basis of the actual time and expense incurred for performing the Services attributed to the change,

charged at the rates set forth in the Schedule of Charges. In such case, POWER shall maintain a separate time and expense accounting for the additional Services. The amount of decrease in the Contract Price resulting from any deletion or change will be the amount of the actual net decrease computed by POWER. When both an increase and decrease occur in any one change order, the change in compensation shall be calculated by adding the increase or subtracting the decrease to arrive at a net change.

5.2 Changed Conditions

POWER's Services and any known conditions are as set forth in the Contract Documents. If conditions differ materially from those set forth in the Contract Documents, then the Contract Price and the Schedule shall be equitably adjusted by Change Order.

5.3 Differing Site Conditions

- (a) POWER's Services are based on certain conditions as set forth in the Contract Documents. POWER shall promptly notify Client of the following unforeseen conditions, hereinafter called "Differing Site Conditions."
 - i. Subsurface or latent physical conditions at the site of the Services differing materially from those indicated, described, or delineated in the Contract Documents; and
 - ii. Physical conditions at the site of the Services of an unusual nature differing materially from those ordinarily encountered and generally expected; and
 - iii. Hazardous or toxic materials.
- (b) Client shall promptly review the Differing Site Conditions to determine the necessity of obtaining additional explorations, tests, or engineering services with respect thereto, and shall advise POWER, in writing, of how the Client wishes to proceed. Such determination by Client shall be made within five (5) business days of notice from POWER of the Differing Site Condition(s). If the Client determines that because of the Differing Site Condition(s) a change in the Services is required, a Change Order shall be issued to reflect and document the consequences of the Differing Site Condition(s).
- (c) In each such case, an adjustment in the Contract Price or an extension of the Schedule, or any combination thereof, shall be granted to POWER to the extent any adjustment or extension is attributable to any such Differing Site Condition(s).

HLY 007-2596 (10/2/06) ge

POWER ENGINEERS, INC.

3940 GLENBROOK DR. / P.O. BOX 1066
HAILEY, ID 83333

Page 2 of 6

PHONE (208) 788-3456
FAX (208) 788-2082

SECTION 6: SUSPENSION AND TERMINATION

6.1 Suspension

In the event the Project is suspended for longer than thirty (30) days, POWER shall have the right to terminate this Agreement.

6.2 Termination For Cause

Either party shall have the right to terminate this Agreement should the other fail to cure any material breach of this Agreement within seven (7) days notice from the non-breaching party.

6.3 Termination For Convenience

Client shall have the right to terminate this Agreement for convenience after providing POWER seven (7) days written notice.

6.4 Termination Compensation

In case of such termination, POWER shall be paid:

- (a) For completed and acceptable Services executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Services;
- (b) For expenses sustained prior to the effective date of termination in performing Services and furnishing labor, materials or equipment as required by the Contract Documents in connection with uncompleted Services, plus fair and reasonable sums for overhead and profit on such expenses;
- (c) For all claims, costs, losses and damages incurred in settlement of terminated contracts with subcontractors, suppliers and others; and
- (d) For reasonable expenses directly attributable to termination.

SECTION 7: INDEMNIFICATION

POWER agrees, to the fullest extent permitted by law, to indemnify and hold the Client, its officers and employees harmless from any claim, damage, liability or cost (including reasonable attorneys' fees and costs of defense) to the extent caused by POWER's negligent acts, errors or omissions in the performance of professional services under this Agreement and those of its subconsultants or anyone for whom POWER is legally liable. Notwithstanding the above, POWER's obligation to defend, indemnify and hold harmless shall extend only to POWER's percentage of negligence contributing to such claim, damage, loss or expense on a comparative basis of fault and responsibility between POWER and Client. It is the express intent of this indemnity clause that POWER shall not be obligated to indemnify Client for Client's own negligence.

Client agrees, to the fullest extent permitted by law, to indemnify and hold POWER harmless from any claim, damage, liability or cost (including reasonable attorneys' fees and costs of defense) arising in whole or in part and in any manner from the acts or failure to act, omissions, breach or default of Client, or those of its contractors, subcontractors or consultants or anyone for whom the Client is legally liable, and arising from the project that is the subject of this Agreement. In addition, Client agrees to indemnify, defend and hold POWER harmless from or against any claim or allegation that any process, technology, equipment, materials or information provided by Client in connection with this Agreement constitutes an infringement of any U.S. patent, trade secret, trademark, copyright or other proprietary rights of any third party.

The indemnification obligations of POWER provided in this Section shall expire on the fifth year anniversary from the termination or completion of POWER's professional services provided under this Agreement.

SECTION 8: INSURANCE

8.1 Limits

During the performance of the Services under this Agreement, POWER shall maintain the following insurance:

- (a) General Liability insurance with bodily injury and property damage of not less than \$1,000,000 for each occurrence and not less than \$2,000,000 in the aggregate.
- (b) Automobile Liability insurance with bodily injury and property damage limits of not less than \$1,000,000 for each accident.
- (c) Workers' Compensation insurance in accordance with statutory requirements and Employer's Liability Insurance with limits of not less than \$500,000 for each occurrence.
- (d) Professional Liability insurance with limits of not less than \$1,000,000 annual aggregate.

8.2 Endorsements

Client shall be named as an additional insured on policies (a) and (b) listed above to the extent claims arise from the Services which are performed pursuant to this Agreement. Insurance policies (a) and (b) above shall be endorsed to include the following language: "Insurance as is afforded by the endorsements for additional insureds shall apply as primary insurance. Any other insurance maintained by the City of Lodi or its officers and employees shall be excess only and not contributing with the coinsurance afforded by this endorsement."

8.3 Proof Of Insurance

POWER shall furnish to Client a certificate of insurance evidencing the above concurrently with the execution of this Agreement and including a provision that such insurance shall not be canceled without at least thirty (30) days written notice to Client.

SECTION 9: LIMITATION OF LIABILITY

Client agrees to limit POWER's liability for insurable events arising from POWER's performance to the insurance limits stated in Section 8, above. POWER's liability for non-insurable events including breach of contract or breach of warranty shall not exceed \$100,000.00.

Neither POWER nor Client nor either party's suppliers, agents, officers, and directors shall have any liability to the other party or any other person or entity for any indirect, incidental, special, or consequential damages whatsoever, including but not limited to loss of revenue or profit, loss of use, failure to realize anticipated profits or savings, loss of or damage to data or other commercial or economic loss, even if POWER has been advised of the possibility of such damages, such damages are foreseeable, or of potential claims by a third party.

SECTION 10: INDEPENDENT CONTRACTOR

POWER agrees it shall operate as an independent contractor and will not be an agent, joint venturer, partner or employee of the Client, nor will it be entitled to any employee benefits provided by the Client. POWER shall be responsible for payment of any and all unemployment, social security, withholding, and other payroll taxes for its employees as applicable.

SECTION 11: DOCUMENTS

11.1 Ownership and Reuse of Documents

- (a) The Client acknowledges that POWER's drawings and specifications, including all documents on electronic media, are instruments of service for use solely with respect to this Project and, unless otherwise provided, POWER shall be deemed the author of the drawings and specifications and shall retain all common law, statutory and other reserved rights, including the copyright. The Client shall be permitted to retain copies, including reproducible copies, of the drawings and specifications for the Client's information, reference and use in connection with the Project. The Client agrees to waive any claim against POWER arising from any unauthorized transfer, reuse or modification of the drawings and specifications.
- (b) Electronic files furnished by POWER shall be subject to an acceptance period of thirty (30) days during which the Client agrees to review and/or perform appropriate acceptance tests. POWER shall

correct any discrepancies or errors detected and reported within the acceptance period at no charge to the Client. After the acceptance period, the electronic files shall be deemed to be accepted and POWER shall have no obligation to correct errors or maintain electronic files. The Client is aware that differences may exist between the electronic files delivered and the printed hard-copy documents. In the event of a conflict between the signed or sealed hard-copy documents prepared by POWER and the electronic files, the hard-copy documents shall govern.

- (c) The Client agrees, to the fullest extent permitted by law, to indemnify and hold POWER harmless from any claim, liability or cost (including reasonable attorneys' fees and defense costs) arising or allegedly arising out of any reuse or modification of the documents by the Client or any person or entity that acquires or obtains the documents from or through the Client.

11.2 Documents Supplied by Others

The parties agree that from time to time POWER may need information from Client for the rendering of the Services hereunder and Client agrees to provide POWER such information as is then available. Client recognizes that it is impossible for POWER to assure the sufficiency and accuracy of such information. Accordingly, Client waives any claim against POWER for liability or injury or loss allegedly arising from errors, omissions, or inaccuracies in documents, drawings, plans or data provided to POWER by Client or by other third parties. If any of the work or Services must be redone because of errors in drawings, plans, or data supplied to POWER, then POWER shall be compensated for such extra Services and the Schedule shall be adjusted accordingly.

SECTION 12: CONFIDENTIALITY

It is understood that the parties may supply to each other confidential or proprietary data during the performance of this Agreement. The parties agree to protect such data from disclosure to outside parties, except where access to such data is necessary for the purpose of performing the services hereunder. Such data shall be marked "Confidential" or "Proprietary" or defined as confidential or proprietary in a separate writing. This confidentiality requirement shall not apply to data that is known to the parties prior to the execution of this Agreement or is in the public domain. In the event such data is subpoenaed by court order, or other legal process, the receiving party shall notify the other party within five (5) business days of receipt of such court order or legal process.

HLY 007-2596 (10/2/06) ge

POWER ENGINEERS, INC.

3940 GLENBROOK DR. / P.O. BOX 1066
HAILEY, ID 83333

Page 4 of 6

PHONE (208) 788-3456
FAX (208) 788-2082

SECTION 13: DISPUTE RESOLUTION**13.1 Exclusive Manner of Dispute Resolution**

Unless otherwise agreed to by the parties, the sole means and method of resolving disputes shall be by mediation and arbitration as set forth in this Agreement. Any lawsuit filed to adjudicate a claim shall be promptly dismissed by the filing party.

13.2 Mediation

All controversies or claims arising out of or relating to this Agreement or breach thereof, except for claims which have been waived hereunder, shall first be submitted to mediation following the Commercial Mediation Rules published by the American Arbitration Association. Unless the parties agree otherwise, mediation shall be held in Lodi, California. This Agreement to mediate and any other agreement or consent to mediate entered into in accordance with this Agreement shall be specifically enforceable under the prevailing law of any court having jurisdiction.

13.3 Arbitration

In the event mediation proves unsuccessful within sixty (60) days of the appointment of the mediator, then all claims, disputes and other matters in question arising out of, or relating to, this Agreement or the breach thereof shall be decided by arbitration conducted by one (1) neutral arbitrator following the Construction Arbitration Rules published by the American Arbitration Association, unless the parties mutually agree otherwise. This Agreement to arbitrate shall be specifically enforceable. The Arbitrator shall not have the authority to consider or award attorneys' fees, costs or punitive damages as part of the Arbitrator's Award. Unless the parties agree otherwise, arbitration shall be held in Lodi, California. Arbitration shall be final and binding. This Agreement to Arbitrate shall be specifically enforceable under the prevailing law of any court having jurisdiction.

13.4 Notice

Notice of the demand for arbitration shall be filed in writing with the other party to this Agreement. The demand for arbitration shall be made within a reasonable time after the claim, dispute or other matter in question has arisen, and in no event shall it be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statute of limitations.

13.5 Costs and Fees

The parties shall share equally the costs and fees of the mediator and arbitrator. Each party shall pay its own costs and attorneys' fees incurred in mediation or arbitration.

SECTION 14: MISCELLANEOUS**14.1 Notices**

Any notice hereunder shall be deemed served immediately if hand-delivered in writing to an officer or other duly appointed representative of the party to whom the notice is directed. Notices shall also be deemed served five (5) business days after transmittal by United States first class mail, or within two (2) days if by any overnight service(s), to the business address identified below:

For POWER:

John McGrew or
Lan Alder
3940 Glenbrook Drive
PO Box 1066
Hailey, ID 83333
208-788-3456
208-788-2082 (fax)

For Client:

Demy Bucaneg
City of Lodi Electric Utilities
1331 S. Ham Lane
Lodi, CA 95242
209-333-6811
209-339-0851

14.2 Applicable Law and Venue

This Agreement and all rights, obligations, liabilities, and responsibilities of the parties hereto shall be governed by, construed, and enforced in accordance with the laws and venue of the State of California.

14.3 Subcontractors

At its request, Client shall have the right to pre-approve the subcontracting of any services to be performed under this Agreement, which approval shall not be unreasonably withheld.

14.4 Successors and Assigns

Client and POWER each binds itself and its partners, successors, executors, administrators, assigns and legal representatives to the other party to this Agreement and to the partners, successors, executors, administrators, assigns, and legal representatives of such other party, in respect to all covenants, agreements, and obligations of this Agreement. This Agreement shall not be assigned by either party without the other party's express written consent. Provided, however, POWER shall be entitled to subcontract portions of its work to other companies in which POWER has an ownership interest without first obtaining the written consent provided for under this Section.

14.5 Equal Employment Opportunity

POWER and Client expressly agree not to discriminate against any employee or applicant for employment because of race, color, religion, gender, national origin, or disability and shall during the performance of this Agreement comply with all applicable Executive Orders and federal regulations.

14.6 Entire Agreement

The terms and conditions herein represent the entire agreement between the parties, and shall not be modified except by written instrument duly executed by both parties.

14.7 Severability

If any provision of this Agreement is held to be in violation of any applicable law rendering such provision void and unenforceable, such provision shall be deemed severed from the Agreement and the remainder of the Agreement shall remain in full force and effect.

14.8 Survival of Obligations

All representations, indemnifications, warranties and guarantees made in, required by or given in accordance with the Contract Documents, as well as all continuing obligations indicated in the Contract Documents, will survive final payment, completion and acceptance of the Services and termination or completion of the Agreement.

14.9 Counterparts

This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute one and the same document.

IN WITNESS WHEREOF the parties have caused this Agreement to be executed as of the date first above written.

City of Lodi

By: _____

Printed: _____

Title: _____

POWER Engineers, Inc.

By: LAN ALDER

Printed: LAN ALDER

Title: PROJECT MANAGER

RESOLUTION NO. 2006-_____

A RESOLUTION OF THE LODI CITY COUNCIL AUTHORIZING
THE CITY MANAGER TO EXECUTE A PROFESSIONAL
SERVICES AGREEMENT WITH POWER ENGINEERS, INC.,
FOR ENGINEERING AND DESIGN OF THE SCALED-BACK
REHABILITATION OF KILLELEA SUBSTATION, AND
REJECTING ALL OTHER DESIGN/ENGINEERING
PROPOSALS

=====

WHEREAS, State law exempts design professional contracts from bidding requirements (Government Code §4526), and further, Lodi Municipal Code §3.20.075 exempts from the bidding process the award of engineering services, providing such awards be based instead on professional qualifications and experience, quality of service, past performance, and negotiated prices; and

WHEREAS, on May 3, 2006, the City Council adopted Resolution No. 2006-83 authorizing, among other tasks, the commencement of work with Power Engineers, Inc. of Hailey, ID to re-scope, engineer, design and construct a scaled-back rehabilitation project for the Electric Utility Killelea Substation located at Cherokee and Lodi; and

WHEREAS, Power Engineers, Inc. engineered and designed the original project to demolish and rebuild the Killelea Substation; and

WHEREAS, following City Council approval of the scaled-back rehabilitation project, the Electric Utility Department has worked for several months to refine the design, technical/performance criteria, and scope of engineering work for the scaled-back project, and when Power Engineers was contacted to perform the engineering/design of the scaled-back project, their then-current workload and personnel availability did not allow them to meet the desired schedule to complete the June, 2007 project deadline; and

WHEREAS, as a back-up plan and to keep the project moving forward, Electric Utility issued a Request for Proposals (RFP) to seven other regional engineering firms to solicit their interest/bids in design/engineering for the project. Three companies responded with the following price proposals:

Electrical Power Systems, Inc.	\$150,695.25
Auriga Corporation	\$188,400.00
Vega Engineering, Inc.	\$369,407.00

WHEREAS, recently, Power Engineers, Inc. advised Electric Utility staff that their backlog had eased and that they would be able to complete the project based on the updated scope of work and a revised schedule and project completion goal of May 2008, for a price of \$115,819. Power Engineers, Inc. did not submit a proposal in response to the RFP; and

WHEREAS, staff recommends that Power Engineers, Inc., of Hailey, ID receive the award to perform engineering and design services for the Killelea Substation Scaled-back project because they are well qualified for the proposed work, has extensive knowledge of the City of Lodi's electric system and the Killelea Substation as a result of work on past projects, and has performed well on previous jobs; and

WHEREAS, staff further recommends that all other proposals for this project be rejected.

NOW, THEREFORE, BE IT RESOLVED, that the Lodi City Council hereby authorizes the City Manager to enter into a professional services agreement with Power Engineers, Inc., of Hailey, ID for Engineering and Design of the scaled-back Rehabilitation of Killelea Substation in the amount of \$115,819.00; and

BE IT FURTHER RESOLVED that the Lodi City Council hereby rejects all other design/engineering proposals for the scaled-back Rehabilitation of Killelea Substation.

Dated: October 18, 2006

=====

I hereby certify that Resolution No. 2006-_____ was passed and adopted by the Lodi City Council in a regular meeting held October 18, 2006, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

JENNIFER M. PERRIN
Interim City Clerk

2006-_____



CITY OF LODI COUNCIL COMMUNICATION

TM

AGENDA TITLE: Authorize City Manager to execute a land lease with the Community Partnership for Families of San Joaquin for construction of a Family Resource Center at Blakely Park

MEETING DATE: October 18, 2006

PREPARED BY: City Manager

RECOMMENDED ACTION: Authorize City Manager to execute a land lease with the Community Partnership for Families of San Joaquin for construction of a Family Resource Center at Blakely Park.

BACKGROUND INFORMATION: On August 2, 2006, the Lodi City Council authorized the City Manager to negotiate a land lease with the Community Partnership for Families of San Joaquin for the construction of a Family Resource Center at Blakely Park. The agreement (Exhibit A) stipulates the terms of the land lease, which are summarized as follows:

- The term of the lease shall be for a period of 55 years commencing November 1, 2006 and ending November 1, 2061 at a rate of \$1.00 per year.
- The facility will consist of approximately 5,000 square feet (more or less).
- Services and programs coordinated at the site will include a financial literacy program, volunteer income tax services, adult literacy, library services, public health home visiting programs, child protective services, employment specialists, tutors probation, mental health, gang outreach, parent advocates, and others.
- The agreement restricts the provision of services treating mental health of substance addiction clients to no more than 50 percent of its offering at any time and specifically prohibits its use as a residential shelter, excepting the provision of local aid during a declared emergency.
- Similar to the City's agreement with the Lodi Boys and Girls Club, CPF is prohibited from any assignment or subletting of the facility without the prior written consent of the City. This stipulation has recently been brought to the attention of Lodi Boys and Girls Club President Mr. Jones. The City Manager has received verbal confirmation that the Club is not contemplating a replacement tenant at this time.
- In the event of a partial destruction of the Premises during the term of this Lease, from any cause whatsoever, CPF shall repair all damages at its own expense within 60 days from the date of loss. In the event CPF opts to abandon the Lease, all improvements remaining shall become property of the City.

FISCAL IMPACT: The park space that the CPF facility would occupy represents a lost opportunity cost. The project offers the City the prospect of sharing in the construction cost of a new restroom. The Public Works Department will provide 40 hours of in-kind project management assistance.

APPROVED: _____
Blair King, City Manager

FUNDING AVAILABLE: Not applicable.

Blair King
City Manager

cc: Recreation Commission
Phyllis Grupe, Board Chair, CPF
Robina Asghar, Executive Director, CPF
Francisco Trujillo, Lodi Site Coordinator, CPF

GROUND LEASE

COMMUNITY PARTNERSHIP FOR FAMILIES OF SAN JOAQUIN

=====

THIS LEASE AGREEMENT ("Lease"), entered into this ____ day of _____, 2006, by and between the CITY OF LODI, a municipal corporation ("City"), and the Community Partnership for Families of San Joaquin ("CPF") shall be as follows:

WHEREAS, the purpose of this agreement is to allow the construction and operation of a Family Resource Center ("FRC") by CPF on land owned by the City; and

WHEREAS, the proposed relationship and arrangement described herein are in the best interests of the City, CPF and the people of Lodi by combining the efforts of both local government and the private sector; and

WHEREAS, CPF'S construction of this facility on City land will provide long term tangible benefits to the citizens of Lodi by assuring them of a place to obtain community services from public and private aid agencies.

NOW, THEREFORE, BE IT AGREED AS FOLLOWS:

1. DEMISED PREMISES.

The premises demised hereunder consists of approximately 5,000 square feet (more or less) building to be commonly known as the Community Partnership for Families Family Resource Center which will be located in the southeast corner of City property commonly known as Blakely Park. The premises is identified more particularly in the diagram attached hereto as Exhibit A and incorporated herein as if fully set forth (hereinafter the "Premises").

2. CONSTRUCTION OF FACILITIES.

CPF agrees to construct a FRC on the Premises. CPF agrees to complete the building shall within 24 months following groundbreaking, which is estimated to begin in early 2008. Further, CPF agrees to complete the interior finishes and equipping of the FRC within 24 months after groundbreaking ("Construction Period"). Prior to commencement of construction of the building shell, CPF shall provide proof that it has the finances to complete construction of the building shell to the City's reasonable satisfaction. Failure of CPF to complete construction within the above time limits shall be deemed a material breach of the lease.

3. USES ALLOWED.

CPF agrees that it will use the FRC constructed under the provisions of this Lease to provide a central location for public and private aid agencies to provide services, and events of general interest to the Lodi community at large. Services coordinated at the site will include financial literacy programs, volunteer income tax services, adult literacy, library services, public health home visiting programs, child protective services, employment specialists, tutors, probation, mental health, gang

outreach, parent advocates, school councilors, and others. At no time during the provision of services at the facility shall the percentage of those services treating mental health or substance addiction clients constitute more than fifty (50) percent of programs offered. Use of the facility as a residential shelter is prohibited, excepting the provision of local aid during a declared emergency.

4. TERM.

The term of this Lease shall be for a period of fifty-five (55) years commencing November 1, 2006 and ending November 1, 2061, pursuant to the provisions of Government Code Section 37380.

5. RENT.

Rent for the demised premises shall be one dollar (\$1.00) per year for the entire term of this lease, payable in one lump sum on the first day of November 2006.

6. RELOCATION OF EXISTING FACILITIES.

An elevation plan is attached as Exhibit B. CPF agrees to relocate or reimburse City to relocate the improvements, facilities, and landscaping set forth on Exhibit B attached hereto.

7. OWNERSHIP OF IMPROVEMENTS UPON TERMINATION OR EXPIRATION OF LEASE.

It is agreed between the parties that upon the expiration or termination of this Lease, the parties shall in good faith attempt to renegotiate an agreement to continue similar uses to those specified in Section 2 above. If mutual agreement is not possible, following a reasonable attempt to reach agreement, the City agrees it shall use its best efforts to use the FRC for the purposes set forth in Section 3 above. However, upon surrender, termination or expiration of this Lease, ownership of the FRC shall vest in the City. CPF shall have the right to remove all personal property at termination of this Lease.

8. USE OF FACILITIES BY CITY.

After contacting CPF and obtaining their approval, the City may use the FRC at reasonable times, provided that (1) CPF is not otherwise using the FRC space, and (2) the City's uses of the FRC are consistent with the uses set forth in Section 3 above. As consideration for such use, City shall pay to CPF a reasonable fee covering costs of operation and maintenance as reasonably determined by CPF.

9. ABANDONMENT/CESSATION OF USE BY CPF.

Following the Construction Period, any cessation of use by CPF for a continuous period of three hundred sixty (360) days or more shall allow City, within its discretion, to operate the FRC upon notice to CPF. In the event of the City's declaration of abandonment or cessation of use, CPF can cure such default and resume operations by

demonstrating that it has on hand the projected operating cost for a twelve (12) month period.

In the event of cessation or abandonment of operations under this Lease for a period of twelve (12) continuous months, the City may declare, after notice to CPF, the Lease null and void within its sole discretion. Additionally, the parties hereto may mutually agree at any time that the City may assume operation of the FRC.

10. MAINTENANCE OF FACILITIES.

CPF shall be responsible to pay for all utilities and the interior and exterior maintenance of the FRC erected on the Premises. City shall be responsible for the maintenance and upkeep of the balance of Blakely Park exclusive of landscaping installed by CPF in conjunction with construction of the FRC, interior walkways, parking lot and CPF playground. After notice by City to CPF and a reasonable response time, City shall have the right to enter onto the premises for the purpose of performing any necessary maintenance for the preservation of the health or safety of Park users or the public, should CPF fail or refuse to do so. CPF agrees that it shall make all reasonable efforts to keep the FRC free of graffiti.

11. INSURANCE.

Lessee is required to carry a policy of Comprehensive General Liability insurance in compliance with all of the provisions of the "Risk Transfer Requirements For Lease or Use of City of Lodi Facilities, attached hereto as Exhibit "C" and incorporated herein by reference.

12. HOLD HARMLESS.

City and CPF hereby agree to save, defend and hold harmless the other for any suit or cause of action arising exclusively from the negligence or alleged negligence of the indemnifying party, its agents, officers and employees, including reasonable attorneys' fees.

13. TERMINATION/SURRENDER.

Lessee may at any time after completion of construction under this Lease terminate or surrender such Lease with the written consent of City upon six (6) months' written advance notice. Otherwise, Lessee shall not vacate, abandon, terminate nor surrender the Premises at any time during the term hereof and if Lessee shall abandon or vacate the Premises, or be dispossessed by process of law or otherwise, all personal property belonging to Lessee left upon the Premises shall be deemed abandoned at the option of City.

14. NO ENCUMBRANCE BY LESSEE OF REAL PROPERTY.

Lessee shall in no way encumber, mortgage or hypothecate nor pledge as security for any debt all or any portion of the Premises demised hereunder except with the written consent of City. CPF shall have the right to encumber the improvements on the Premises from time to time during the term of this Lease.

15. DESTRUCTION OF PREMISES.

In the event of a partial destruction of the Premises during the term of this Lease, from any cause whatsoever, CPF shall forthwith repair all damages at its own expense, commencing within sixty (60) days from the date of loss or destruction. In the event that CPF does not within sixty (60) days from the date of loss or destruction commence repairs or reconstruction, as City's sole remedy City may, in writing, deliver to CPF a demand that within thirty (30) days of such notice, CPF either commence reconstruction or abandon this Lease. In the event CPF opts to abandon the Lease, all improvements remaining thereon shall become property of City. This shall in no way be deemed a waiver of any other legal right by either party hereto.

16. NOTICES.

All notices required under this Lease shall be given in writing, by first-class mail with postage prepaid to the following addresses:

City shall be: City Manager
 P.O. Box 3006
 Lodi, California 95241-1910

CPF shall be: Community Partnership for Families of San Joaquin
 P. O. Box 244
 Lodi, California 95241.

17. ASSIGNMENT, SUBLETTING OR USE OF THE PREMISES.

CPF shall not assign this Lease or sublet any portion of the Premises without the prior written consent of City, which shall not be unreasonably withheld. Any assignment or subletting without the consent of City shall be void and, at the option of the City. Further, City shall have the right to approve all public and private aid agencies given use of the FRC by CPF.

18. APPROVAL OF CONSTRUCTION PLANS BY CITY PRIOR TO CONSTRUCTION OR REMODEL.

CPF shall, prior to the commencement of construction, reconstruction, or substantial remodeling of the Premises, submit such plans in advance to the City for approval.

19. ENTIRE AGREEMENT.

This lease constitutes the entire understanding and agreement between the parties hereto. There shall be no modifications without the written consent of both parties. The titles contained in the Lease are provided for convenience only and are not controlling in any interpretation hereof.

IN WITNESS WHEREOF, the parties hereto have set their hands the day and year first hereinabove mentioned.

CITY OF LODI,
a municipal corporation

COMMUNITY PARTNERSHIP
FOR FAMILIES OF SAN JOAQUIN

BLAIR KING, City Manager

By _____

ATTEST:

RANDI JOHL, City Clerk

APPROVED AS TO FORM:

D. STEPHEN SCHWABAUER
City Attorney

Exhibit A

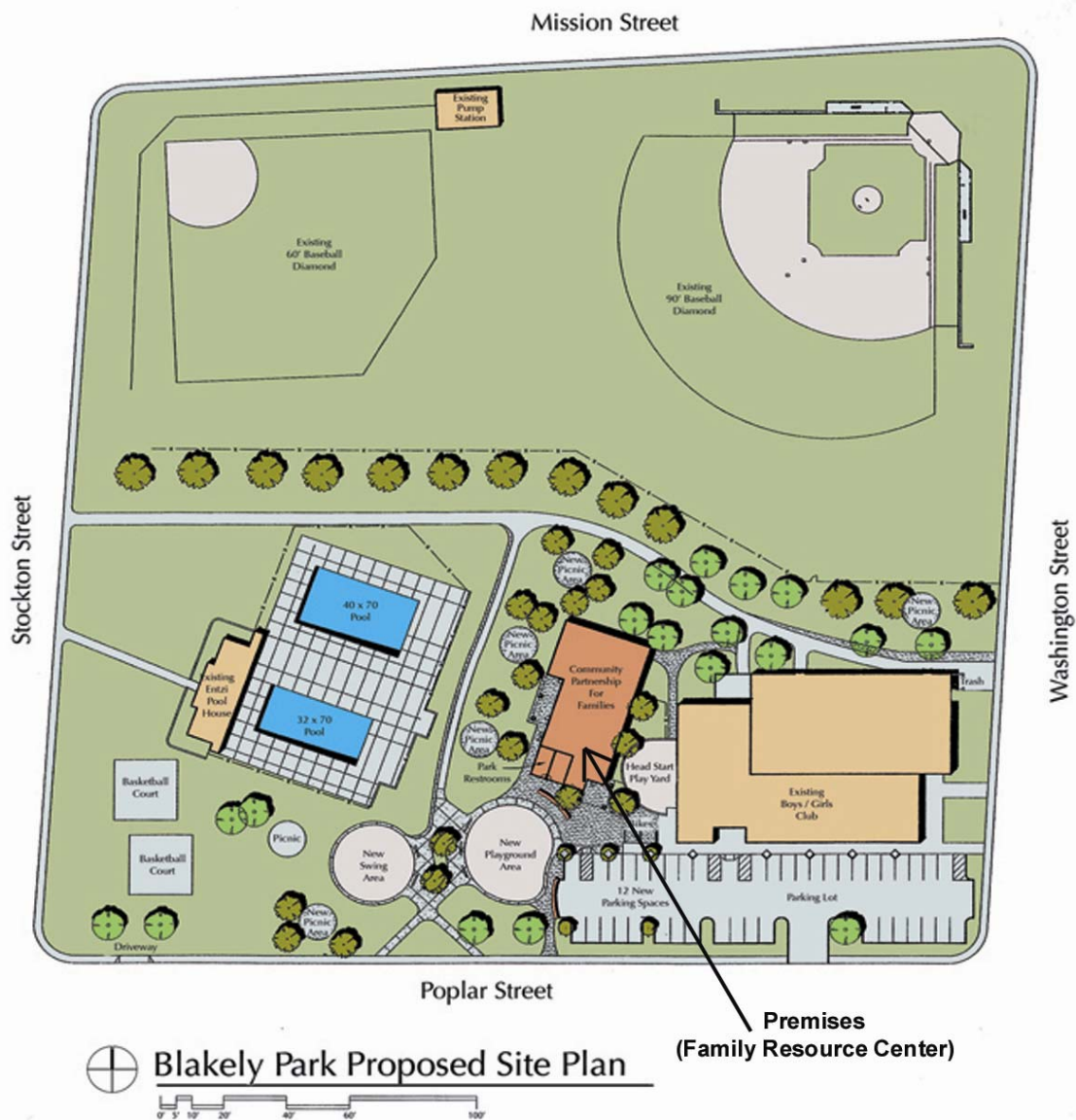




EXHIBIT C

CITY OF LODI RISK TRANSFER REQUIREMENTS FOR LEASE OR USE OF CITY FACILITIES

1. Any individual party or group (hereinafter called Lessee) leasing, renting or otherwise using City of Lodi facilities, is required to carry a policy of Comprehensive General Liability insurance, and must complete a formal application or permit. Processing of applications is handled by the department responsible for the facility.
2. A duplicate or certificate of insurance shall be delivered to the City 30 DAYS prior to the use of City facilities.

NOTE: Lessee agrees and stipulates that any insurance coverage provided to the City of Lodi shall provide for a claims period following termination of coverage which is as lease consistent with the claims period or statutes of limitations found in the California Tort Claims Act (California Govt. Code < 810 et seq.).

"Claims made" coverage requiring the insured's to give notice of any potential liability during a time period shorter than that found in the Tort Claims Act shall be unacceptable.

3. Each insurance certificate shall contain satisfactory evidence that each carrier is required to give the City of Lodi immediate notice of the cancellation or reduction in coverage of any policy during the effective period of the use of the City's facilities.
4. Each insurance certificate shall state on its face or as an endorsement, the location or and a description of the function that it is insuring.
5. If the City has not approved the insurance certificate and appropriate application or permit prior to the commencement of any portion of the function, the City's facilities will not be allowed to be utilized, and any contract or agreement entered into will become null and void.
6. Provided the lease agreement or contract does not prohibit a subtenant, all provisions of these requirements shall apply to and be construed as applying to any subtenant of the Lessee.
7. All requirements herein provided shall appear either in the body of the insurance policies or as endorsements and shall specifically bind the insurance carrier.

8. In each and every instance, the City of Lodi must be named as an additional insured on the face of the insurance certificate or as an endorsement attached to the insurance certificate. (The City of Lodi, its Elected and Appointed Boards, Commissions, Officers, Agents and Employees, must be named the additional insured, not Hutchins Street Square, Parks and Recreation, or another individual or department).
9. The address of the City of Lodi must be shown along with number 8 above, (i.e. Additional Insured, City of Lodi, its Elected and Appointed Boards, Commissions, Officers, Agents and Employees, 221 W. Pine Street, Lodi, Ca. 95240) This must be the street address NOT the post office box.
10. In addition to the Additional Names Insured Endorsement on Lessee's policy of insurance, said insurance policy shall be endorsed to include the following language or reasonable facsimile:
"Such insurance as is afforded by the endorsement for the Additional Insured's shall apply as primary insurance. Any other insurance maintained by the City of Lodi or its officers and employees shall be excess only and not contributing with the coinsurance afforded by this endorsement."
11. The combined single limits for bodily injury and property damage shall not be less than \$1,000,000 each occurrence. If alcohol is to be consumed or sold at the Lessee's event, then liquor liability coverage must be provided.
12. The Policy effective date and expiration date must coincide with and span the date(s) of the event being insured.
13. If the limits of coverage are not the amounts specified in Section 10 and 11 above and/or if the City is not named as an additional insured on the insurance certificate, not in conformance with the requirements of paragraph 2 above, the City will not accept the insurance certificate, and a corrected certificate must be furnished to the City prior to any use of City facilities.
14. If a corrected insurance certificate and appropriate application or permit is not received by the City of Lodi prior to the use of City facilities, the City will not allow the facilities to be used, and any agreement or contract entered into will become null and void.



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Adopt resolution authorizing the City of Lodi to endorse the California Memorandum of Understanding in support of the National Action Plan for Energy Efficiency (EUD)

MEETING DATE: October 18, 2006

PREPARED BY: Electric Utility Director

RECOMMENDED ACTION: Adopt a resolution authorizing the City of Lodi to endorse the California Memorandum of Understanding (MOU) in support of the National Action Plan for Energy Efficiency (NAPEE).

BACKGROUND INFORMATION: The United States Department of Energy and the Environmental Protection Agency are co-sponsoring the NAPEE. These two agencies have developed a series of voluntary recommendations and best practices for organizations across the country to promote energy efficiency.

The key elements of the NAPEE include:

- recognizing energy efficiency as a priority resource;
- making a strong commitment to implementing cost effective energy efficiency;
- promoting energy efficiency across the nation; and
- implementing a proactive public communications program which highlights the benefits of energy efficiency.

To demonstrate support for the NAPEE, a MOU has been sponsored by the California Governor's office, the California Energy Commission, the California Public Utilities Commission, the Natural Resources Defense Council and many of the states larger electric utilities including the Sacramento Municipal Utility District and the Los Angeles Department of Water and Power. The MOU has also been endorsed/executed by the Northern California Power Agency and a number of individual NCPA member agencies.

A strong commitment to energy efficiency is no stranger to the City of Lodi, its citizens and business owners. As a municipal organization, the City of Lodi has invested hundreds of thousands of dollars into energy conservation efforts since 1999 -- efforts designed to conserve energy and reduce utility operating costs. Some of the measures have included:

- the installation of light-emitting diode technology in traffic signals (a move that has reduced energy consumption by 75 percent per signalized intersection);
- the installation of high efficiency lighting at parks and recreation facilities;

APPROVED: _____
Blair King, City Manager

Adopt resolution authorizing the City of Lodi to endorse the California Memorandum of Understanding in support of the National Action Plan for Energy Efficiency (EUD)

October 18, 2006

Page 2 of 2

- the removal of aging heating/air conditioning units at various city buildings and replacement by high efficiency units;
- the installation of an energy management system at Hutchins Street Square; and
- the installation of compact fluorescent lamps and other high efficiency lighting in city-owned facilities.

To assist the general public in achieving energy efficiency, Lodi Electric Utility launched a series of programs in early 1999 designed to promote and encourage energy conservation:

- **Lodi Appliance Rebate Program** -- rebates are provided for purchasing high efficiency refrigerator, dishwashers and clothes washers;
- **Lodi Energy Efficient Home Improvement Rebate Program** -- rebates are provided for purchasing and installing new air ducts, attic/wall insulation, ceiling/attic fans, whole house fans, and more;
- **Lodi Commercial Rebate Program** -- rebates are provided to small businesses who pursue designated and approved energy efficiency measures;
- **Lodi Industrial/Large Customer High Efficiency Rebate Program** -- rebates are provided to Lodi's largest energy users for installing various conservation measures;
- **Lodi HVAC System Performance Testing** -- Lodi Electric Utility was the first California utility to offer computer diagnostics testing of residential heating/cooling/ventilation systems (over 1,200 Lodi residences have been tested since the program's inception two years ago); and
- **Lodi Energy Audit Program** -- free energy audits are provided on-line or on-site for residential and small commercial customers. These audits are designed to promote energy efficiency, and assist customers in reducing monthly energy consumption.

The citizens of Lodi have responded to these and other energy efficiency programs in fairly dramatic fashion. During fiscal year 2005-2006, over 3,860 Lodi homeowners and business owners/managers participated in the various rebate/energy conservation programs made available to them by the Electric Utility Department. The total energy savings achieved by the efforts of Lodians this past fiscal year were in excess of 970,000-kilowatt hours of energy. In addition, EUD provided 34 classroom presentations on energy conservation and renewable energy resources to students of all ages. These numbers provide just a glimpse of Lodi's overall commitment to energy efficiency.

By way of this Council agenda item, and Council action, the City of Lodi has the opportunity to officially endorse the National Action Plan for Energy Efficiency, and more specifically, support the California MOU pledging the Golden State's support of NAPEE.

Lodi Electric Utility respectfully recommends approval of this resolution.

FISCAL IMPACT: Not applicable.

FUNDING: Not applicable.

George F. Morrow
Electric Utility Director

Prepared By: Rob Lechner, Manager, Customer Service & Programs

**MEMORANDUM OF UNDERSTANDING
PLEDGING THE SUPPORT OF THE STATE OF CALIFORNIA
FOR THE NATIONAL ACTION PLAN FOR ENERGY EFFICIENCY**

WHEREAS,

- Cost-effective energy efficiency, conservation and demand response resources are reliable, least cost, energy resource options with proven capability for helping meet the country's energy needs. Significant investment in cost-effective energy efficiency, conservation and demand response resources can help to stabilize energy prices, enhance electric system reliability, reduce pollution emissions from power plants, reduce natural gas demand, and provide significant cost savings to customers. Despite these substantial benefits, energy efficiency, conservation and demand response options remain critically underutilized resources in much of the nation's overall energy portfolio;
- Recognizing that a great portion of the country's energy efficiency potential remains untapped, the United States Environmental Protection Agency and the United States Department of Energy joined together to sponsor the development of a National Action Plan for Energy Efficiency;
- The goal of the National Action Plan for Energy Efficiency is to create a sustainable, aggressive commitment to energy efficiency by gas and electric utilities, utility regulators, and partner organizations to help meet the nation's energy needs;
- To kick-off the development of the National Action Plan for Energy Efficiency, the United States Environmental Protection Agency and the United States Department of Energy brought together representatives from more than 50 leading organizations representing key stakeholder perspectives in setting policy for electricity and natural gas services to form a Leadership Group for the National Action Plan. The members of the Leadership Group join with each other to promote increased national investment in energy efficiency resources and the widespread adoption of best practices through the development and implementation of the collaboratively-created National Action Plan for Energy Efficiency;
- When forming the Leadership Group, the United States Environmental Protection Agency and the United States Department of Energy invited the California Energy Commission, the California Public Utilities Commission, the Natural Resources Defense Council, Pacific Gas and Electric Company, Sacramento Municipal Utility District, and Southern California Edison Company to join other stakeholders from around the country to collaboratively develop the National Action Plan. By signing this MOU, signatories now also join with their energy efficiency Leadership Group colleagues from California, the other western states and across the nation to participate in the ongoing collaborative development, roll-out and implementation of the National Action Plan;

- The Leadership Group for the National Action Plan for Energy Efficiency:
 - Recognizes that utilities and regulators have critical roles in creating and delivering energy efficiency programs to their communities;
 - Understands that success requires the joint efforts of the customer, utility, regulator, and partner organizations;
 - Commits to work across their spheres of influence to remove barriers to cost-effective energy efficiency and to take action within their own organizations to increase attention and investment in energy efficiency; and,
 - Supports policy recommendations for creating a sustainable, aggressive national commitment to energy efficiency through electric and gas utilities and partner organizations;

- At the same time that the National Action Plan for Energy Efficiency was being developed, California's energy leadership was also working with its counterparts in the Western Governors' Association to develop the Western Governors' Clean and Diversified Energy Initiative;

- In its January 2006 Energy Efficiency Task Force Report, the Clean and Diversified Energy Advisory Committee found that it would be feasible to cost effectively reduce electricity use 20% from projected levels in 2020 through full deployment of best practice policies and programs. The best practices identified in the Western Governors' Clean and Diversified Energy Advisory Committee report include many of the same policies and practices identified in the National Action Plan for Energy Efficiency, and already adopted or currently under consideration in California. These best practices include the integration of cost effective energy efficiency into resource planning and procurement, the establishment of energy savings targets, and the decoupling of energy sales and revenues in combination with the creation of performance incentives that reward utilities for implementing effective DSM programs;

- Consistent with its participation in these national and regional initiatives, the energy policy leadership of the State of California has steadfastly demonstrated its commitment to the pursuit of cost-effective energy efficiency, conservation, and demand response options as the resource of first choice for meeting the State's energy needs, including through the following actions:
 - California Law – The Governor and Legislature recently codified energy efficiency as the State's top priority resource, requiring that each electric and natural gas utility "first meet its unmet resource needs through all available energy efficiency and demand reduction resources that are cost effective, reliable, and feasible";
 - California's Energy Action Plan – In California's Energy Action Plan, the California Public Utilities Commission and the California Energy Commission have designated cost-effective energy efficiency and demand response options as

first in California's "loading order" of resources to meet the State's growing energy needs. The California Energy Action Plan affirms the value of integrating energy efficiency, conservation, and demand response programs (as well as renewable resources) into overall resource planning and procurement;

- Green Building Action Plan Executive Order – Governor Schwarzenegger's 2004 Executive Order S-20-04 calls for aggressive action to:
 - reduce State building energy usage by undertaking all cost-effective measures described in the Green Building Action Plan in facilities owned, funded or leased by the State, and to encourage cities, counties and schools to do the same,
 - reduce grid-based energy purchases for State-owned buildings by 20% by 2015,
 - adopt Department of General Services guidelines to enable and encourage schools built with State funds to be resource and energy efficient,
 - provide California Public Utilities Commission support for investor-owned utilities' information and commercial building efficiency programs,
 - propose a benchmarking methodology and building commissioning guidelines by the California Energy Commission,
 - undertake all California Energy Commission actions within that agency's authority to increase efficiency in new construction,
 - target resource efficient buildings for California Public Employees Retirement System and State Teachers Retirement System real estate investment, and
 - request participation by State government entities not under the Governor's direct executive authority;
- California's Building and Appliance Codes and Standards – The California Energy Commission has set the nation's strongest energy efficiency codes and standards for new buildings and appliances. California keeps these codes and standards updated approximately every three years through a public process;
- California's Statewide Marketing and Outreach – Under the oversight of the California Public Utilities Commission, California's investor-owned utilities promote and support a statewide marketing and outreach campaign that educates consumers about energy efficiency, conservation and demand response opportunities. California's statewide marketing and outreach efforts are designed to support the U.S. Environmental Protection Agency and Department of Energy's "ENERGY STAR" efforts and provide information about programs available for California consumers. California's current statewide marketing and outreach campaign offerings include the "Flex Your Power" and "Flex Your Power Now" general awareness campaigns, as well as associated Spanish-language media and rural community outreach campaigns;
- California's Investor-Owned Utilities' Investment in Cost-Effective Energy Efficiency and Demand Response Resources – California's investor-owned utilities (Pacific Gas and Electric Company, San Diego Gas and Electric Company, Southern California Edison Company, and Southern California Gas

Company) continue their longstanding active commitment to pursuing all cost-effective energy efficiency, conservation, and demand response resources. The investor-owned electric utilities are putting these demand-side resources first in their resource planning and procurement “loading order” for meeting their customers’ energy needs and the gas utilities are pursuing all cost-effective energy efficiency resources to reduce natural gas demand. Working collaboratively with the California Public Utilities Commission, California’s investor-owned utilities have secured the nation’s highest program funding levels to mount the most aggressive energy efficiency and demand response campaign in California’s – and the country’s – history;

- California’s Municipally-Owned Utilities’ Demonstrated Commitment to Energy Efficiency, Conservation, and Demand Response Resources – California’s municipally-owned utilities have sustained their commitment to energy efficiency, conservation and demand response resources over many years as a key resource strategy and customer service value, and that commitment will continue as municipal utilities pursue with renewed vigor all opportunities for cost effective investment in innovative programs and technologies to meet customers’ energy and service needs, accelerate market adoption of emerging technologies, and potentially develop new measures which may be considered for future adoption into California’s energy efficiency codes and standards;
- As a direct result of California’s wise energy policies, aggressive actions and long-standing commitment to the pursuit of capturing the benefits of energy efficiency, conservation, and demand response resources, California’s per capita energy use has remained approximately flat over the past 30 years, while per capita electricity consumption in the U.S. has increased by nearly 50 percent. This remarkable accomplishment is attributable to the combination of the State’s continued progress in cost-effective building and appliance standards and the ongoing success of the energy efficiency programs of California’s utilities and other entities. California’s results have been validated through careful analyses of program potential and cost-effectiveness, as well as rigorous measurement, verification and reporting of program results to substantiate that consumers are receiving the benefits of their investment in demand-side resources;

NOW, THEREFORE, THE SIGNATORIES TO THIS MEMORANDUM OF UNDERSTANDING PLEDGING THE SUPPORT OF THE STATE OF CALIFORNIA FOR THE NATIONAL ACTION PLAN FOR ENERGY EFFICIENCY DO HEREBY PLEDGE:

- Active support for the development, promotion and implementation of the National Action Plan for Energy Efficiency, including:
 - Supporting the ongoing development of the National Action Plan for Energy Efficiency by reviewing the working group reports and considering their recommendations for adoption;
 - Participating in the national roll-out of the National Action Plan for Energy Efficiency (scheduled for July 31, 2006, at the NARUC Summer Committee meetings in San Francisco, California) by issuing a press release on that date stating the signatory's support for recommendations from the National Action Plan for Energy Efficiency and pledging specific continuing and expanded commitments to the promotion, funding and implementation of energy efficiency in California;
 - Providing resources to promote recommendations from the National Action Plan for Energy Efficiency at speaking engagements and other educational opportunities, including participation in "buddy system" outreach efforts in which the signatories engage fellow political leaders, regulators, utilities and other stakeholders to inform them about the National Action Plan for Energy Efficiency's best practice findings and recommendations; and,
 - As appropriate for each signatory, continuing to model California's best practices and policies identified in the National Action Plan for Energy Efficiency, including:
 - designation of energy efficiency as a high priority resource option;
 - adoption of targets for energy efficiency;
 - pursuit of energy efficiency resources under a long-term resource planning and procurement framework;
 - institution of a regulatory framework that encourages utility investment in energy efficiency; and
 - sharing California's successes with others interested in energy efficiency and learning from others' successes in the planning and delivery of cost-effective energy efficiency programs.

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RESOLUTION NO. 2006-_____

A RESOLUTION OF THE LODI CITY COUNCIL AUTHORIZING
THE CITY OF LODI TO ENDORSE THE CALIFORNIA
MEMORANDUM OF UNDERSTANDING IN SUPPORT OF THE
NATIONAL ACTION PLAN FOR ENERGY EFFICIENCY

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WHEREAS, the United States Department of Energy and the Environmental Protection Agency are co-sponsoring the National Action Plan for Energy Efficiency (NAPEE); and

WHEREAS, these two agencies have developed a series of voluntary recommendations and best practices for organizations across the country to promote energy efficiency; and

WHEREAS, the key elements of the NAPEE include:

- recognizing energy efficiency as a priority resource;
- making a strong commitment to implementing cost effective energy efficiency;
- promoting energy efficiency across the nation; and
- implement a proactive public communications program which highlights the benefits of energy efficiency; and

WHEREAS, in order to demonstrate support for the NAPEE, a Memorandum of Understanding (MOU) has been sponsored by California Governor's office, the California Energy Commission, the California Public Utilities Commission, the Natural Resources Defense Council and many of the states larger electric utilities including the Sacramento Municipal Utility District and the Los Angeles Department of Water and Power. The MOU has been endorsed/executed by the Northern California Power Agency and a number of individual NCPA member agencies; and

WHEREAS, staff recommends that the City Council officially endorse the National Action Plan for Energy Efficiency, and more specifically, support the California MOU pledging the Golden State's support of the NAPEE.

NOW, THEREFORE, BE IT RESOLVED, that the Lodi City Council hereby adopts this Resolution endorsing the California Memorandum of Understanding in support of the National Action Plan for Energy Efficiency.

Dated: October 18, 2006

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I hereby certify that Resolution No. 2006-_____ was passed and adopted by the Lodi City Council in a regular meeting held October 18, 2006, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

JENNIFER M. PERRIN
Interim City Clerk

2006-_____



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Adopt resolution authorizing the City Manager or designee to execute standard Electrical Interconnection & Co-Energy/Net Energy Metering Payment Agreements (EUD)

MEETING DATE: October 18, 2006

PREPARED BY: Electric Utility Director

RECOMMENDED ACTION: Adopt resolution authorizing the City Manager or designee to execute standard 'Electrical Interconnection & Co-Energy/Net Energy Metering Payment Agreements and adopt the standard form of said Agreements as presented and attached.

BACKGROUND INFORMATION: On October 4, 2006, the City Council approved two (2) new rate schedules referred to as the "Co-Energy Metering Rider" and the "Net Energy Metering Rider" to become effective on November 1, 2006.

In order to accommodate future customer-installed wind or solar electric generating facilities, the Electric Utility Department desires to create two new standardized agreements titled "Electrical Interconnection & Co-Energy Metering Payment Agreement" and "Electrical Interconnection & Net Metering Payment Agreement" (attached).

These forms update and replace separate net energy interconnection and payment agreements implemented by the utility approximately four years ago for net metering arrangements. Consolidating these two forms into one document simplifies and reduces the amount of paperwork to be reviewed/signed by the customer prior to installing solar or wind generation. A new agreement for Co-Energy Metering is also being established.

The proposed standard agreements contain provisions to ensure that customer-owned solar and/or wind facilities are installed safely and in compliance with electrical standards and policies. They also stipulate the legal relationship between the parties and incorporate insurance and liability/indemnification provisions designed to protect the City and other customers.

In addition to the adoption of standard form of agreements, this resolution also requests that the City Manager or designee be provided the authority to execute same on behalf of the electric utility. Under the provisions of SB 1 (the Solar Bill) signed into law last month, a significant number of new solar installations are expected after January 1, 2008 when all electric utilities, including Lodi Electric, are required to begin providing rebates to encourage such installations. Advance authorization to execute standard electrical interconnection and payment agreements will improve customer service/satisfaction and comply with the intent of SB1 requiring expeditious utility approvals for new customer-owned solar/wind projects.

APPROVED: _____
Blair King, City Manager

Adopt resolution authorizing the City Manager or designee to execute standard Electrical Interconnection & Co-Energy/Net Energy Metering Payment Agreements (EUD)
October 18, 2006
Page 2 of 2

FISCAL IMPACT: Not applicable.

FUNDING: Not applicable.

George F. Morrow
Electric Utility Director

Prepared By: Rob Lechner, Manager, Customer Service & Programs

GFM/RSL/lst

Attachments

RESOLUTION NO. 2006-_____

A RESOLUTION OF THE LODI CITY COUNCIL
AUTHORIZING THE CITY MANAGER OR DESIGNEE TO
EXECUTE STANDARD ELECTRICAL INTERCONNECTION &
CO-ENERGY/NET ENERGY METERING PAYMENT
AGREEMENTS, AND ADOPTING A STANDARD FORM OF
SAID AGREEMENTS

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NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby authorize the City Manager or Designee to execute standard Electrical Interconnection and Co-Energy/Net Energy Metering Payment Agreements on behalf of the City of Lodi; and

BE IT FURTHER RESOLVED, that the City of Lodi hereby adopts a standard form of said Agreements marked Exhibit A attached hereto.

Dated: October 18, 2006

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I hereby certify that Resolution No. 2006-_____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held October 18, 2006, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

JENNIFER M. PERRIN
Interim City Clerk

2006-_____



CITY OF LODI ELECTRIC UTILITY
**ELECTRICAL INTERCONNECTION &
 CO-ENERGY METERING PAYMENT AGREEMENT**
 FOR GENERATING FACILITY OF GREATER THAN 10 KW AND LESS THAN 1.0 MW

_____ “Customer,” and the City of Lodi (C.O.L.), referred to collectively as “Parties,” or individually as “Party,” agree as follows:

1.0 SOLAR or WIND ELECTRIC GENERATING FACILITY:

1.1 Project Identification Number: _____

1.2 Generating Facility Information:

Type of Generator (Solar/Wind/Hybrid): _____

Generator Nameplate Rating (kW): _____

Gross Nameplate Rating (kW): _____

1.3 Customer Service Address: _____

1.4 Customer Billing Address: _____

1.5 Customer Phone/Fax Number: _____

1.6 The Facility may consist of electricity-generating hardware, electrical controls, an inverter, automatic disconnect, and wiring to connect all of the above to C.O.L. electric distribution system (collectively referred to hereafter as the “Facility”). Customer shall furnish a complete description of the Generating Facility, its significant components and single-line diagram as part of this Agreement.

1.7 The Facility will be ready for operation on or about: _____

1.8 Customer Account/Meter Number: _____

2.0 OPERATING OPTION

Customer has elected to construct, design, install, operate and maintain the Facility in a manner consistent with the normal and safe operation of the electric distribution system owned and operated by C.O.L. The Facility is intended primarily to provide part or all of the Customer’s own electrical energy requirements.

By signing this Agreement, Customer understands, accepts, and agrees that connection and operation of the Customer’s Facility shall be subject to the terms and conditions set forth in this Agreement and in C.O.L.’s rates, standards, rules and regulations (referred to hereafter as the “Rules”). Any conflict between this Agreement and the Rules will be governed by the terms of the Rules.

3.0 CREDITS FOR CO-ENERGY METERING

All credits for net energy are subject to C.O.L.’s “Rules”, as amended from time to time. The provisions of C.O.L.’s schedule CEM, “Co-Energy Metering Rider,” shall be applicable. Any changes in C.O.L. rates which would act to modify this Agreement shall automatically be incorporated herein without the need for a formal amendment.

4.0 INTERRUPTION OR REDUCTION OF DELIVERIES

4.1 C.O.L. shall not be obligated to accept, and C.O.L. may require Customer to interrupt or reduce deliveries of energy to C.O.L. : (a) when necessary in order to construct, install, maintain, repair, replace, remove, investigate, or inspect any of C.O.L.’s equipment or part of C.O.L.’s system; or (b) if C.O.L. determines that curtailment, interruption, or reduction of receipt of energy from Customer’s Facility is necessary because of emergencies, forced outages, force majeure, or compliance with prudent electrical practices.

4.2 As practicable, C.O.L. shall give Customer reasonable notice of the possibility that interruption or reduction of deliveries may be required. The Parties acknowledge that such notice is not a legal requirement.

4.3 Notwithstanding any other provision of this Agreement, if at any time C.O.L., in its sole discretion, determines that either (a) the Facility may endanger C.O.L. personnel or member of the general public, or (b) the continued operation of Customer’s Facility may impair the integrity of C.O.L.’s electric distribution system, C.O.L. shall have the right to disconnect Customer’s

Facility from C.O.L.’s electric distribution system. Customer’s Facility shall remain disconnected until such time as C.O.L. is satisfied that the condition(s) referenced in (a) or (b) of this paragraph have been corrected.

4.4 C.O.L. shall not be obligated to compensate Customer for any loss of use of generation of energy during any and all periods of disconnection.

5.0 CONDITIONS OF FACILITY OPERATIONS

5.1 Customer shall deliver available energy from the Facility to C.O.L. at the utility’s meter.

5.2 Customer, and not C.O.L. shall be solely responsible for all legal and financial obligations arising from the construction, installation, design, operation, and maintenance of the Facility in accordance with all applicable laws, ordinances, regulations and standards (LORS).

5.3 Customer, at Customer’s sole expense, shall obtain and possess all permits and authorizations in accordance with all applicable laws and regulations for the construction, installation, design, operation and maintenance of the Facility.

5.4 Co-energy metering shall be accomplished using two meters in the interconnection of the Facility in parallel with C.O.L.’s electric distribution system. One meter shall measure the Customer electricity usage and the other meter shall record the power production of the Facility. Customer shall provide and install C.O.L. approved meter socket in accordance with C.O.L.’s metering standards. The customer shall be responsible for all expenses involved in purchasing and installing the appropriate meters with communication interface. Meters shall be capable of measuring electricity flow in both directions and shall be equipped with “time-of-use” measurements.

5.5 C.O.L. may install, at its expense, additional metering equipment.

5.6 In the event the Customer sells said property, this existing Agreement will be null and void. The existing facility system will be disconnected by C.O.L. once the Customer has vacated the premises and before a new owner inhabits the premise. Customer shall notify C.O.L. of such property sale, as well as effective date of said sale of property.

5.7 In the event that said property is a rental property, the customer/owner of property will be responsible for maintaining the system and adhering to all safety requirements. In addition, the property owner will be required to sign the contractual arrangement – not the tenant (renter).

5.8 Customer shall not connect the Facility, or any portion of it, to C.O.L.’s electric distribution system, until written approval of the Facility has been given to Customer by C.O.L. Such approval shall not be unreasonably withheld. C.O.L. shall have the right to have representatives present at the initial testing of Customer’s Facility.

5.9 Customer may reconnect its Facility to the C.O.L. system following normal operational outages and interruptions by the Customer, without notifying C.O.L. unless C.O.L. has disconnected service or C.O.L. notifies customer that a reasonable possibility exists that reconnection would pose a safety hazard.

If C.O.L. has disconnected service to the Facility, or C.O.L. has notified Customer that a reasonable possibility exists that reconnection would pose a safety hazard, Customer shall call C.O.L. to request authorization to reconnect the Facility.

6.0 INTERCONNECTION DESIGN STANDARDS

6.1 Customer’s Facility, and all portions of it used to provide or distribute electrical power and parallel interconnection with C.O.L.’s distribution equipment shall be designed, installed, constructed, operated and maintained in compliance with this Agreement and C.O.L.’s Rules. Compliance with this section is mandatory unless prior written C.O.L. approval is provided for those specific items not in compliance. Exemptions shall be in writing, signed by C.O.L., and shall be attached to and become a part of this agreement.

6.2 Customer shall conform to applicable California Electric Code (CEC) Standards [CEC 690] and applicable building codes.

6.3 Customer shall have a dedicated circuit from the inverter to electrical service panel with a circuit breaker or fuse [CEC 690-64(b)(1)].

6.4 Customer's overcurrent device at the service panel shall be marked to indicate facility power source [CEC 690-64(b)(4)].

6.5 The Customer's inverter shall have the following minimum specifications for parallel operation with C.O.L.

Inverter output shall automatically disconnect from C.O.L. source upon loss of C.O.L. voltage and not reconnect until C.O.L. voltage has been restored by C.O.L. [CEC 690-61]. The facility shall synchronize with C.O.L.'s electric distribution system voltage and frequency before closing in parallel.

Inverter shall meet the applicable requirements of IEEE 929, "Recommended Practice for Utility Interface of Photovoltaic (PV) Systems," IEEE 519, "Recommended Practices and Requirements for Harmonic Control in Electrical Power Systems," and Underwriters Laboratories (UL) 1741, "Standard for Static Inverters and Charge Controllers for Use in Photovoltaic Power Systems."

6.6 The Customer shall comply with C.O.L.'s Engineering Construction Standard 942 0240.

6.7 The Facility shall be designed and constructed for grid connection in accordance with the Interconnection, Protective Equipment, Power factor, Metering and Operating Requirements and other applicable provisions as stipulated in C.O.L.'s Rules. Power system studies and special operating agreement may be required before interconnecting the Customer's Facility to C.O.L.'s electric distribution system.

7.0 MAINTENANCE AND PERMITS

Customer shall: (a) maintain the Facility in a safe and prudent manner and in conformance with all applicable laws and regulations including, but not limited to, requirements of Section 6.0 above, and (b) to the extent that future requirements may require, obtain any governmental authorizations or permits required for the operation of the Facility. Customer shall reimburse C.O.L. for any and all losses, damages, claims, penalties, or liability C.O.L. incurs as a result of Customer's failure to obtain or maintain any governmental authorizations and permits required for construction and operation of the Customer's Facility. C.O.L.'s receipt of final inspection/permits from the customer is a condition precedent to C.O.L.'s execution of this Agreement.

8.0 ACCESS TO PREMISES

C.O.L. may enter Customer's premises without prior notice (a) to inspect at all reasonable hours Customer's protective devices and read or test any meter for the Facility and (b) to disconnect, at any time, without notice, the Facility if, in C.O.L.'s sole opinion, a hazardous condition exists. The Customer's protective devices, disconnects and facilities for the C.O.L. metering equipment shall not be located behind locked gates, as viewed from the street, or have access obstructed by landscaping, stored materials and/or equipment (Lodi Municipal Code section 13.20.130).

9.0 INDEMNITY AND LIABILITY BY CUSTOMER

9.1 Customer shall indemnify and hold C.O.L., its elected officials, officers, agents and employees harmless against all loss, damages, expense and liability to third persons for injury or death of persons or injury to property caused by the Customer's engineering, design, construction, installation, ownership, maintenance or operations of, or the making of replacements, additions or betterment to, or by failure of, the Facility in connection with this Agreement by reason of omission or negligence, whether active or passive. Customer shall, on C.O.L.'s request, defend any suit asserting a claim covered by this indemnity provision. Customer shall pay all costs, including attorneys fees, that may be incurred by C.O.L. in enforcing this indemnity provision.

9.2 Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to, any person not a party to this Agreement. Neither C.O.L., its elected officials, agents or employees shall be liable for any claims, demands, costs, losses, causes of action, or any other liability of any nature or kind, arising out of the engineering, design, construction, ownership, maintenance or operation of, or making of replacements, additions or betterment to, Customer's Facility except to the extent actually caused by the sole and gross negligence of C.O.L.

9.3 Neither C.O.L., its elected officials, agents or employees shall be liable for damages of any kind to the Facility caused by any electrical disturbance of the C.O.L. system or on the system of another, whether or not the electrical disturbance results from the negligence of C.O.L. or not.

9.4 In connection with the Customer's performance of its duties and obligations under this Agreement, the Customer shall maintain, during the term of the Agreement, general liability insurance covering bodily injury and property damage in accordance with C.O.L.'s Rules. C.O.L. shall have the right to inspect or obtain a copy of any policy of insurance required in accordance with C.O.L.'s Rules.

10.0 GOVERNING LAW AND VENUE

This Agreement shall be interpreted, governed, and construed under the laws of the State of California as if executed and to be performed wholly within the State of California. Venue for any legal proceedings brought under this Agreement shall be with the San Joaquin County Superior Court.

11.0 AMENDMENTS, MODIFICATIONS OR WAIVER

This Agreement will at all times be subject to C.O.L.'s Rules, as amended from time to time. Any changes in C.O.L. Rules which would act to modify this Agreement shall automatically be incorporated herein without the need for a formal amendment.

Except as otherwise provided herein, any amendments or modifications to this Agreement shall be in writing and agreed to by both Parties. The failure of any Party at any time or times to require performance of any provision hereof shall in no manner affect the right at a later time to enforce the same. No waiver by any Party of the breach of any term or covenant contained in this Agreement, whether by conduct or otherwise, shall be deemed to be construed as a further or continuing waiver of any such breach or a waiver of the breach of any other term or covenant unless such waiver is in writing and signed by the Parties.

12.0 NOTICES

All written notices shall be directed as follows:

City of Lodi Electric Utility
Attn: Customer Programs
1331 S. Ham Lane, Lodi, CA 95242

Customer's notices to C.O.L. pursuant to this Section 12 must refer to the Project Identification Number set forth in Section 1.1.

CUSTOMER: Customer name and billing address as shown on front page.

Notice by first-class mail, postage prepaid, shall be deemed to have been made 3-days from the date of mailing. Notice by overnight delivery or hand-delivery shall be deemed to have been made as of the date of receipt.

13.0 TERM OF AGREEMENT

This Agreement shall be in effect when signed by the Customer and C.O.L. This Agreement shall remain in effect unless terminated by either Party upon thirty (30) days prior written notice in accordance with Section 12. C.O.L. may terminate this Agreement for any violation of this Agreement or any violation of C.O.L.'s Rules.

14.0 ENTIRE AGREEMENT

This Agreement constitutes the entire agreement of the understanding of the Parties and supercedes all offers, negotiations, and other agreements of any kind. There are no representations or understandings of any kind not set forth herein. Any modification of or amendment to this Agreement must be in writing and executed by the Parties.

15.0 SIGNATURES

The signatories to this Agreement represent that each has full right, power, and authority to execute this Agreement on behalf of the entity each purports to represent.

IN WITNESS WHEREOF, the Parties hereto have caused two originals of this Agreement to be executed by their duly authorized representatives. This Agreement is effective as of the last date set forth below.

CUSTOMER

SIGNATURE

NAME

TITLE

DATE

CITY OF LODI, a municipal corporation, ELECTRIC UTILITY

SIGNATURE

NAME

ELECTRIC UTILITY DIRECTOR

TITLE

DATE



CITY OF LODI ELECTRIC UTILITY
**ELECTRICAL INTERCONNECTION &
 NET ENERGY METERING PAYMENT AGREEMENT**
 FOR GENERATING FACILITY OF 10 KW OR LESS



_____ “Customer,” and the City of Lodi (C.O.L.), referred to collectively as “Parties,” or individually as “Party,” agree as follows:

1.0 SOLAR OR WIND ELECTRIC GENERATING FACILITY:

1.1 Project Identification Number: _____

1.2 Description of Customer's Generating Facility:

Type of Generator (Solar/Wind/Hybrid) _____

Generator Rating (CEC PTC Watts-DC) _____

Inverter Manufacturer used with Generator _____

Inverter Model No. _____

System Rating (Watts-AC) _____

1.3 Customer's Service Address: _____

1.4 Customer's Billing Address: _____

1.5 Customer's Phone No. at Service Address (): _____

Alternate (): _____

1.6 The Facility consists of electricity-generating hardware, electrical controls, an inverter, automatic disconnect, and wiring to connect all of the above to C.O.L. electricity distribution system at C.O.L. meter (collectively referred to hereafter as the “Facility”).

1.7 The Facility will be ready for operation on or about: _____

1.8 Customer Account No.: _____

2.0 OPERATING OPTION

Customer has elected to construct, design, install, operate and maintain the Facility in a manner consistent with the normal and safe operation of the electric distribution system owned and operated by C.O.L. The Facility is intended primarily to provide part or all of the Customer's own electrical energy requirements.

By signing this Agreement, Customer understands, accepts, and agrees that connection and operation of the Customer's Facility shall be subject to the terms and conditions set forth in this Agreement and in C.O.L.'s rates, standards, rules and regulations (referred to hereafter as the “Rules”). Any conflict between this Agreement and the Rules will be governed by the terms of the Rules.

3.0 CREDITS FOR NET ENERGY METERING

All credits for net energy are subject to C.O.L.'s “Rules”, as amended from time to time. The provisions of C.O.L.'s schedule NEM, “Net Metering Rider,” shall be applicable. Any changes in C.O.L. rates which would act to modify this Agreement shall automatically be incorporated herein without the need for a formal amendment.

4.0 INTERRUPTION OR REDUCTION OF DELIVERIES

4.1 C.O.L. shall not be obligated to accept, and C.O.L. may require Customer to interrupt or reduce deliveries of energy to C.O.L. : (a) when necessary in order to construct, install, maintain, repair, replace, remove, investigate, or inspect any of C.O.L.'s equipment or part of C.O.L.'s system; or (b) if C.O.L. determines that curtailment, interruption, or reduction of receipt of energy from Customer's Facility is necessary because of emergencies, forced outages, force majeure, or compliance with prudent electrical practices.

4.2 As practicable, C.O.L. shall give Customer reasonable notice of the possibility that interruption or reduction of deliveries may be required. The Parties acknowledge that such notice is not a legal requirement.

4.3 Notwithstanding any other provision of this Agreement, if at any time C.O.L., in its sole discretion, determines that either (a) the Facility may endan-

ger C.O.L. personnel or member of the general public, or (b) the continued operation of Customer's Facility may impair the integrity of C.O.L.'s electric distribution system, C.O.L. shall have the right to disconnect Customer's Facility from C.O.L.'s electric distribution system. Customer's Facility shall remain disconnected until such time as C.O.L. is satisfied that the condition(s) referenced in (a) or (b) of this paragraph have been corrected.

4.4 C.O.L. shall not be obligated to compensate Customer for any loss of use of generation of energy during any and all periods of disconnection.

5.0 CONDITIONS OF FACILITY OPERATIONS

5.1 Customer shall deliver available energy from the Facility to C.O.L. at the utility's meter.

5.2 Customer, and not C.O.L. shall be solely responsible for all legal and financial obligations arising from the construction, installation, design, operation, and maintenance of the Facility in accordance with all applicable laws, ordinances, regulations and standards (LORS).

5.3 Customer, at Customer's sole expense, shall obtain and possess all permits and authorizations in accordance with all applicable laws and regulations for the construction, installation, design, operation and maintenance of the Facility.

5.4 Net Energy metering shall be accomplished using a single meter capable of registering the flow of electricity in two directions. If the Customer's existing electrical meter is not capable of measuring the flow of electricity in two directions, C.O.L. shall replace the meter with a Net Energy Meter (NEM). Customer shall provide and install C.O.L. approved meter socket in accordance with C.O.L.'s metering standards. The customer shall be responsible for all expenses involved in purchasing and installing a meter that is able to measure electricity flow in two directions.

5.5 C.O.L. may install, at its expense, additional metering equipment.

5.6 In the event the Customer sells said property, this existing Agreement will be null and void. The existing facility system will be disconnected by C.O.L. once the Customer has vacated the premises and before a new owner inhabits the premise. Customer shall notify C.O.L. of such property sale, as well as effective date of said sale of property.

5.7 In the event that said property is a rental property, the customer/owner of property will be responsible for maintaining the system and adhering to all safety requirements. In addition, the property owner will be required to sign the contractual arrangement – not the tenant (renter).

5.8 Customer shall not connect the Facility, or any portion of it, to C.O.L.'s electric distribution system, until written approval of the Facility has been given to Customer by C.O.L. Such approval shall not be unreasonably withheld. C.O.L. shall have the right to have representatives present at the initial testing of Customer's Facility.

5.9 Customer may reconnect its Facility to the C.O.L. system following normal operational outages and interruptions by the Customer, without notifying C.O.L. unless C.O.L. has disconnected service or C.O.L. notifies customer that a reasonable possibility exists that reconnection would pose a safety hazard.

If C.O.L. has disconnected service to the Facility, or C.O.L. has notified Customer that a reasonable possibility exists that reconnection would pose a safety hazard, Customer shall call C.O.L. to request authorization to reconnect the Facility.

6.0 INTERCONNECTION DESIGN STANDARDS

6.1 Customer's Facility, and all portions of it used to provide or distribute electrical power and parallel interconnection with C.O.L.'s distribution equipment shall be designed, installed, constructed, operated and maintained in compliance with this Agreement and C.O.L.'s Rules. Compliance with this section is mandatory unless prior written C.O.L. approval is provided for those specific items not in compliance. Exemptions shall be in writing, signed by C.O.L., and shall be attached to and become a part of this agreement.

6.2 Customer shall conform to applicable California Electric Code (CEC)

Standards [CEC 690] and applicable building codes.

6.3 Customer shall have a dedicated circuit from the inverter to electrical service panel with a circuit breaker or fuse [CEC 690-64(b)(1)].

6.4 Customer's overcurrent device at the service panel shall be marked to indicate facility power source [CEC 690-64(b)(4)].

6.5 The Customer's inverter shall have the following minimum specifications for parallel operation with C.O.L.

Inverter output shall automatically disconnect from C.O.L. source upon loss of C.O.L. voltage and not reconnect until C.O.L. voltage has been restored by C.O.L. [CEC 690-61].

Inverter shall meet the applicable requirements of IEEE 929, "Recommended Practice for Utility Interface of Photovoltaic (PV) Systems," IEEE 519, "Recommended Practices and Requirements for Harmonic Control in Electrical Power Systems," and Underwriters Laboratories (UL) 1741, "Standard for Static Inverters and Charge Controllers for Use in Photovoltaic Power Systems."

6.6 The Customer shall comply with C.O.L.'s Engineering Construction Standard 942 0240.

7.0 MAINTENANCE AND PERMITS

Customer shall: (a) maintain the Facility in a safe and prudent manner and in conformance with all applicable laws and regulations including, but not limited to, requirements of Section 6.0 above, and (b) to the extent that future requirements may require, obtain any governmental authorizations or permits required for the operation of the Facility. Customer shall reimburse C.O.L. for any and all losses, damages, claims, penalties, or liability C.O.L. incurs as a result of Customer's failure to obtain or maintain any governmental authorizations and permits required for construction and operation of the Customer's Facility. C.O.L.'s receipt of final inspection/permits from the customer shall be a condition precedent to C.O.L.'s execution of this Agreement.

8.0 ACCESS TO PREMISES

C.O.L. may enter Customer's premises without prior notice (a) to inspect at all reasonable hours Customer's protective devices and read or test any meter for the Facility and (b) to disconnect, at any time, without notice, the Facility if, in C.O.L.'s sole opinion, a hazardous condition exists. The Customer's protective devices, disconnects and facilities for the C.O.L. metering equipment shall not be located behind locked gates, as viewed from the street, or have access obstructed by landscaping, stored materials and/or equipment (Lodi Municipal Code section 13.20.130).

9.0 INDEMNITY AND LIABILITY BY CUSTOMER

9.1 Customer shall indemnify and hold C.O.L., its elected officials, officers, agents and employees harmless against all loss, damages, expense and liability to third persons for injury or death of persons or injury to property caused by the Customer's engineering, design, construction, installation, ownership, maintenance or operations of, or the making of replacements, additions or betterment to, or by failure of, the Facility in connection with this Agreement by reason of omission or negligence, whether active or passive. Customer shall, on C.O.L.'s request, defend any suit asserting a claim covered by this indemnity provision. Customer shall pay all costs, including attorneys fees, that may be incurred by C.O.L. in enforcing this indemnity provision.

9.2 Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to, any person not a party to this Agreement. Neither C.O.L., its elected officials, agents or employees shall be liable for any claims, demands, costs, losses, causes of action, or any other liability of any nature or kind, arising out of the engineering, design, construction, ownership, maintenance or operation of, or making of replacements, additions or betterment to, Customer's Facility except to the extent actually caused by the sole and gross negligence of C.O.L.

9.3 Neither C.O.L., its elected officials, agents or employees shall be liable for damages of any kind to the Facility caused by any electrical disturbance of the C.O.L. system or on the system of another, whether or not the electrical disturbance results from the negligence of C.O.L. or not.

9.4 In connection with the Customer's performance of its duties and obligations under this Agreement, the Customer shall maintain, during the term of the Agreement, general liability insurance covering bodily injury and property damage in accordance with C.O.L.'s Rules.

9.5 C.O.L. shall have the right to inspect or obtain a copy of any policy of insurance required in accordance with C.O.L.'s Rules.

10.0 GOVERNING LAW AND VENUE

This Agreement shall be interpreted, governed, and construed under the laws of the State of California as if executed and to be performed wholly within the State of California. Venue for any legal proceedings brought under this Agreement shall be with the San Joaquin County Superior Court.

11.0 AMENDMENTS, MODIFICATIONS OR WAIVER

This Agreement will at all times be subject to C.O.L.'s Rules, as amended from time to time. Any changes in C.O.L. Rules which would act to modify this Agreement shall automatically be incorporated herein without the need for a formal amendment.

Except as otherwise provided herein, any amendments or modifications to this Agreement shall be in writing and agreed to by both Parties. The failure of any Party at any time or times to require performance of any provision hereof shall in no manner affect the right at a later time to enforce the same. No waiver by any Party of the breach of any term or covenant contained in this Agreement, whether by conduct or otherwise, shall be deemed to be construed as a further or continuing waiver of any such breach or a waiver of the breach of any other term or covenant unless such waiver is in writing and signed by the Parties.

12.0 NOTICES

All written notices shall be directed as follows:

City of Lodi Electric Utility
Attn: Customer Programs
1331 S. Ham Lane, Lodi, CA 95242

Customer's notices to C.O.L. pursuant to this Section 12 must refer to the Project Identification Number set forth in Section 1.1.

CUSTOMER: Customer name and billing address as shown on front page.

Notice by first-class mail, postage prepaid, shall be deemed to have been made 3-days from the date of mailing. Notice by overnight delivery or hand-delivery shall be deemed to have been made as of the date of receipt.

13.0 TERM OF AGREEMENT

This Agreement shall be in effect when signed by the Customer and C.O.L. This Agreement shall remain in effect unless terminated by either Party upon thirty (30) days prior written notice in accordance with Section 12. C.O.L. may terminate this Agreement for any violation of this Agreement or any violation of C.O.L.'s Rules.

14.0 ENTIRE AGREEMENT

This Agreement constitutes the entire agreement of the understanding of the Parties and supercedes all offers, negotiations, and other agreements of any kind. There are no representations or understandings of any kind not set forth herein. Any modification of or amendment to this Agreement must be in writing and executed by the Parties.

15.0 SIGNATURES

The signatories to this Agreement represent that each has full right, power, and authority to execute this Agreement on behalf of the entity each purports to represent.

IN WITNESS WHEREOF, the Parties hereto have caused two originals of this Agreement to be executed by their duly authorized representatives. This Agreement is effective as of the last date set forth below.

CUSTOMER

SIGNATURE _____

NAME _____

TITLE _____

DATE _____

CITY OF LODI, a municipal corporation, ELECTRIC UTILITY

SIGNATURE _____

NAME
ELECTRIC UTILITY DIRECTOR

TITLE _____

DATE _____



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Adopt a resolution authorizing the receipt of \$23,000 in grant funding from the State Department of Housing and Community Development

MEETING DATE: October 18, 2006

PREPARED BY: Community Development Director, Randy Hatch

RECOMMENDED ACTIONS: Adopt a resolution authorizing the receipt of \$23,000 in grant funding from the State Department of Housing and Community Development (HCD).

BACKGROUND INFORMATION: The City of Lodi has received a Workforce Housing Reward Program (WFH Program) award from the State Department of Housing and Community Development in the amount of \$23,000. The City applied for the grant as part of the Housing and Emergency Shelter Trust Fund Act of 2002 (Proposition 46) which has the goal of encouraging new housing affordable to low-income households and to reward local governments for approving housing projects affordable to lower income households and the workforce. These monies may be used for projects that involve the construction, rehabilitation and/or acquisition of capital assets, and capital assets with an expected life of fifteen (15) years.

Although this is not a competitive grant, staff did need to exercise some creativity in their application process by identifying dwelling units for rent and for sale that meet the State's affordability thresholds for low income households. Since the City had not approved any subsidized dwelling units last year, staff identified market rate affordable units that meet the State defined criteria for affordability. This was done by using what the State predetermined to be reasonable rent or mortgage for various sized households and then determining which units fell within that range. Staff was able to identify 12 dwelling units ranging from one to three bedrooms that fell within the category of either extremely, very low, or low income housing. Identification of these units resulted in an incentive based reward from the State Department of Housing and Community Development in the amount of \$23,000.

Staff recommends that the Council take action to approve a resolution authorizing the City Manager to received grant funds in the amount of \$23,000 from the State Department of housing and Community Development for a Workforce Housing Reward Program award.

FISCAL IMPACT: The \$23,000 award from State HCD has a positive impact on the City in that the funds can be used for capital improvements to address impacts to the City generated by new or existing housing.

APPROVED: _____
Blair King, City Manager

FUNDING AVAILABLE: The grant for the WFH Program is in the amount of \$23,000. No general fund money is necessary to receive this grant.

Ruby Paiste, Financial Services Manager

Randy Hatch
Community Development Director

RH/pp/kc

RESOLUTION NO. 2006-_____

A RESOLUTION OF THE LODI CITY COUNCIL ACCEPTING
GRANT FUNDING (\$23,000) FROM THE STATE DEPARTMENT OF
HOUSING AND COMMUNITY DEVELOPMENT FOR A
WORKFORCE HOUSING REWARD PROGRAM

=====

WHEREAS, the City applied for and received a Workforce Housing Reward Program grant award as part of the Housing and Emergency Shelter Trust Fund Act of 2002 (Proposition 46) which has the goal of encouraging new housing affordable to low-income households and to reward local governments for approving housing projects affordable to lower income households and the workforce; and

WHEREAS, these monies may be used for projects that involve the construction, rehabilitation and/or acquisition of capital assets, and capital assets with expected life of fifteen (15) years; and

WHEREAS, in the application process staff identified dwelling units for rent and for sale that met the State's affordability thresholds for low-income households; and

WHEREAS, since the City had not approved any subsidized dwelling units last year, staff identified market rate affordable units that meet the State defined criteria for affordable, which was done by using what the State predetermined to be reasonable rent or mortgage for a family of various sizes and then determining which units fell within that range; and

WHEREAS, staff was able to identify 12 dwelling units ranging from one to three bedrooms that fell within the category of either extremely, very low, or low income housing. Those affordable units amounted to an incentive-based reward from the State Department of Housing and Community Development in the amount of \$23,000.

WHEREAS, staff recommends that the City Council authorize the City Manager to receive the grant funds from the State Department of Housing and Community Development in the amount of \$23,000.

NOW, THEREFORE, BE IT RESOLVED, that the Lodi City Council does hereby authorize the City Manager to receive the grant funding in the amount of \$23,000 from the State Department of Housing and Community Development in a form and manner determined by said agency.

Dated: October 18, 2006

=====

I hereby certify that Resolution No. 2006-_____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held October 18, 2006, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

JENNIFER M. PERRIN
Interim City Clerk

2006-_____



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Set public hearing for November 1, 2006 to consider the following:

- a) Certify the Lodi Annexation Environmental Impact Report (EIR) for the Southwest Gateway Project (including "other annexation areas") and the Westside Project.
- b) Approve the Southwest Gateway Project, which includes an annexation; pre-zoning; amendment to the Bicycle Transportation Master Plan; and Development Agreement; to incorporate 305 acres into the City of Lodi (257 acres with the Southwest Gateway Project area and 47.79 contiguous acres outside the Project) to allow construction of 1300 dwelling units, 5 neighborhood / community parks, and a public elementary school, on the west side of Lower Sacramento Road, south of Kettleman Lane, north of Harney Lane.

Including a City initiated request for the "Other Annexation Areas" (47.79 acres) for annexation, General Plan Amendment from a land use designation of PR (Planned Residential) to MDR (Medium Density Residential), and a Pre-zoning of R-MD (Residential Medium Density) to avoid creation of a County island.

- c) Approve the Westside Development Project, which includes an Annexation; pre-zoning; Amendment to the Bicycle Transportation Master Plan; Development Agreement; and an Amendment to the Westside Facilities Master Plan to incorporate 151 acres into the City of Lodi to allow construction of 750 dwelling units, 3 neighborhood/community parks, and a public elementary school at 351 E. Sargent Road, 70 East Sargent Road, 212 East Sargent Road, and 402 East Sargent Road.

MEETING DATE: October 18, 2006

PREPARED BY: Community Development Department

RECOMMENDED ACTION: Set public hearing for November 1, 2006 to consider the following:

- a) Certify the Lodi Annexation EIR for the Southwest Gateway Project (including "other annexation areas") and the Westside Project (SCH#2005092096). File# EIR-05-01. Applicant: Frontiers Community Builders
- b) Approve the Southwest Gateway Project, which includes an annexation (AX-04-01); pre-zoning (Z-04-01); amendment to the Bicycle Transportation Master Plan; and Development Agreement (GM-05-001); to incorporate 305 acres into the City of Lodi (257 acres with the Southwest Gateway Project area and 47.79 contiguous acres outside the Project) to allow construction of 1300 dwelling units, 5 neighborhood / community parks, and a public elementary school, on the west side of Lower Sacramento Road, south of Kettleman Lane, north of Harney Lane. Applicant: Frontiers Community Builders

Including a City initiated request for the "Other Annexation Areas" (47.79 acres) for annexation, General Plan Amendment (GPA-05-01) from a land use designation of PR (Planned Residential) to MDR (Medium Density Residential), and a Pre-zoning of R-MD (Residential Medium Density) to avoid creation of a County island. File #AX-04-01 Applicant: City of Lodi

APPROVED: _____
Blair King, City Manager

- c) Approve the Westside Development Project, which includes an Annexation (AX-04-02); pre-zoning (Z-04-03); Amendment to the Bicycle Transportation Master Plan; Development Agreement (GM-05-002); and an Amendment to the Westside Facilities Master Plan to incorporate 151 acres into the City of Lodi to allow construction of 750 dwelling units, 3 neighborhood/community parks, and a public elementary school at 351 E. Sargent Road, 70 East Sargent Road, 212 East Sargent Road, and 402 East Sargent Road. Applicant: Frontiers Community Builders

BACKGROUND INFORMATION: Tom Doucette, President of Frontiers Community Builders (FCB) submitted applications for Annexation and General Plan Amendments for the Westside and Southwest (SW) Gateway Project areas in January 2004. Following these applications, the applicant submitted applications for Planned Development Rezone, and Growth Management allocations in May 2005. It was the City's original intent to prepare a Mitigated Negative Declaration for these projects, but upon further review of the proposed development applications, the City determined that an EIR would be the appropriate California Environmental Quality Act (CEQA) analysis for this project. An EIR is needed based on the City's understanding that the proposed projects would have Significant Unavoidable impacts including: a) loss of Prime Farmland and conflicts with existing Williamson Act contracts; b) degradation of visual character; c) air quality; and d) potential growth inducing impacts associated with the Project's potential to facilitate development to the west of the City if it decides it wants to grow west.

Staff prepared one EIR for both of the proposed projects. On September 16, 2005, a Notice of Preparation (NOP) was circulated notifying responsible agencies and interested parties that an EIR would be prepared, indicating the environmental topics that were anticipated to be addressed in the EIR. A public scoping (brainstorming) session, which was noticed to all property owners located within 500 feet of the projects, was held by the Planning Commission on October 12, 2005.

The Draft EIR was prepared, and was made available for public review on April 17, 2006. It was distributed to State and local agencies, posted at the County Clerk's Office, and made available at the City Planning Offices and Public Library. The Draft EIR was distributed to the Planning Commissioners and City Council members in April 2006. The Notice of Completion (NOC) was published on April 17, 2006.

The 45-day public comment period began on April 17, 2006 and closed on May 26, 2006. Written responses to each comment received were prepared, and the comments and responses were packaged into a Response to Comments document.

The Draft EIR and the Response to Comment document constitute the Final EIR, and the Planning Commission is considering the analysis and conclusions in these documents prior to taking action on the SW Gateway and Westside applications for Annexation, General Plan Amendment [for "Other Annexation Areas" only (south of Food 4 Less)], Prezone, Development Agreement, Bicycle Master Plan Amendment and Westside Facilities Master Plan Amendment (Westside project only).

The Planning Commission held their public hearings on the EIR, Southwest Gateway Project, and the Westside Project on October 11, 2006. After considerable public testimony and discussion the Planning Commission voted to continue the public hearing to November 8, 2006, subsequently the Planning Commission received a letter from the applicant expressing the need to hold the hearing on the regularly scheduled meeting of October 25, 2006. The Planning Commission will meet on October 25, 2006 to develop their recommendations to the City Council.

FISCAL IMPACT: None

FUNDING AVAILABLE: Not Applicable

Randy Hatch
Community Development Director

cc: City Attorney

Comments by the public on non-agenda items

THE TIME ALLOWED PER NON-AGENDA ITEM FOR COMMENTS MADE BY THE PUBLIC IS LIMITED TO FIVE MINUTES.

The City Council cannot deliberate or take any action on a non-agenda item unless there is factual evidence presented to the City Council indicating that the subject brought up by the public does fall into one of the exceptions under Government Code Section 54954.2 in that (a) there is an emergency situation, or (b) the need to take action on the item arose subsequent to the agenda's being posted.

Unless the City Council is presented with this factual evidence, the City Council will refer the matter for review and placement on a future City Council agenda.

Comments by the City Council Members on non-agenda items



CITY OF LODI COUNCIL COMMUNICATION

TM

AGENDA TITLE: Public Hearing to consider adoption of resolution levying annual (2007) assessment for Downtown Lodi Business Improvement Area No. 1 and confirming the Downtown Lodi Business Partnership 2006-07 Annual Report (as approved by Council on October 4, 2006)

MEETING DATE: October 18, 2006

PREPARED BY: City Manager

RECOMMENDED ACTION: Conduct Public Hearing to consider adoption of resolution levying Annual (2007) assessment for Downtown Lodi Business Improvement Area No. 1 and confirming the Downtown Lodi Business Partnership 2006-07 Annual Report (as approved by Council on October 4, 2006).

BACKGROUND INFORMATION: The Downtown Lodi Business Improvement Area No. 1 2006/07 Annual Report was presented and approved by the City Council on October 4, 2006. The Council established October 18, 2006 as the Public Hearing date during which time the public would have an opportunity to present written or oral protests to the assessment being proposed. The Public Hearing is established pursuant to Section 36535 of the California Streets and Highways Code.

Pursuant to Lodi Municipal Code chapter/section 12.06.110: *The purpose of this process is to comply with the Act provisions regarding public notice and hearing prior to establishing the benefit fees for the following billing period. City shall not adopt, modify or otherwise amend any billing period budget of the area that is inconsistent in any way with such billing period's budget as agreed to and presented by the board except in the case of a written majority protest (regarding elimination or modification of any specific budget item) from business owners which will pay fifty percent or more of the fees proposed to be levied as to any specific budget item pursuant to Streets and Highways Code Section 36525(b). In such case the written protest regarding any specific budget item shall be grounds to eliminate or modify such expenditure from the area's proposed budget pursuant to the written protest.*

Streets and Highway Code 36535 (c) states: *At the conclusion of the public hearing, the City Council may adopt a resolution confirming the report as originally filed or as changed by it. The adoption of the resolution shall constitute the levy of an assessment for the fiscal year referred to in the report.*

FISCAL IMPACT: The Downtown Lodi Business Partnership was established in order to create the mechanisms necessary to give Downtown Lodi the ability to compete regionally as a shopping center and entertainment destination. The purpose of the assessment is to pool contributions of individual business owners in order to provide the DLBP with the resources to provide marketing and events coordination. The 2006/07 report proposes a 20% increase in the assessment fee, the first since the DLBP was established in 1997.

APPROVED: _____
Blair King, City Manager

FUNDING AVAILABLE: As collected by the City on behalf of the DLBP.

Ruby Paiste, Financial Services Manager

Blair King
City Manager

Attachments

cc: Chuck Easterling, Chair, DLBP
Jaimie Watts, Executive Director, DLBP

RESOLUTION NO. 2006-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LODI
CONFIRMING THE 2007 ANNUAL REPORT FOR THE DOWNTOWN
LODI BUSINESS IMPROVEMENT AREA NO. 1 AND LEVY OF
ASSESSMENT

=====

WHEREAS, Downtown Lodi Business Improvement Area No. 1 was established December 17, 1997, by Council adoption of Ordinance No. 1654; and

WHEREAS, the Annual Report, as required by Streets and Highways Code §36533, has been submitted to the City Council by the Board of Directors of said Improvement Area; and

WHEREAS, a public hearing was held as required by Streets and Highways Code §36524 on October 18, 2006, in the City Council Chambers at Carnegie Forum, 305 West Pine Street, Lodi, California, at 7:00 p.m., or as soon thereafter as possible, to consider protests to the assessment levy.

NOW, THEREFORE, the City Council of the City of Lodi does hereby resolve, determine, and find as follows:

- 1) The required public hearing was duly held, at which time the public was allowed to present written or oral protests to the levy of assessment for Downtown Lodi Business Improvement Area No. 1.
- 2) A majority protest as defined in the Streets and Highways Code §36525 was not made.
- 3) The 2006-07 Annual Report as submitted on October 4, 2006, by the Board of Directors of the Improvement Area to the City Council is hereby confirmed as originally filed and attached hereto.
- 4) The confirmation of the report and adoption of this resolution constitutes the levy of the assessment as contained in the Annual Report for the calendar year 2007.

Dated: October 18, 2006

=====

I hereby certify that Resolution No. 2006-_____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held October 18, 2006, by the following vote:

AYES: COUNCIL MEMBERS –
NOES: COUNCIL MEMBERS –
ABSENT: COUNCIL MEMBERS –
ABSTAIN: COUNCIL MEMBERS –

SUSAN J. BLACKSTON
City Clerk

2006-_____



August 31, 2006

Mr. Blair King, City Manager
City of Lodi
221 W. Pine Street
Lodi, CA 95241-1910

Re: Annual Report 2006/2007

Dear Blair:

Section 11.0 of the City Ordinance Number 1654, establishing the Downtown Lodi Business Improvement Area, requires that we submit to you by September of each year our annual report and budget.

In addition, the State of California Streets and Highways code, which is the enabling legislation, also specifies that certain additional information be provided. You will find all of the required information contained in our report.

We have provided you with seven copies, five for the City Council, one for the City Clerk and one for yourself.

Thank you for your continued support.

Sincerely,

A handwritten signature in black ink, appearing to read "Chuck Easterling".

Chuck Easterling, President
Downtown Lodi Business Partnership

Downtown Lodi Business Partnership
4 West Pine Street, Lodi, California 95240
209.369.8052 phone 209.369.8053 fax
www.downtownlodi.com

2038309
ENDORSED
FILED

In the office of the Secretary of State
of the State of California

MAR 31 1998

Bill Jones
BILL JONES, Secretary of State

ARTICLES OF INCORPORATION OF
DOWNTOWN LODI BUSINESS PARTNERSHIP
A California Nonprofit Mutual Benefit Corporation

One: The name of the corporation is Downtown Lodi Business Partnership (A California Nonprofit Mutual Benefit Corporation)

Two: This corporation is a nonprofit mutual benefit corporation organized under the Nonprofit Mutual Benefit Corporation Law. The purpose of this corporation is to engage in any lawful act or activity for which a corporation may be organized under such law.

Such purposes for which this corporation is formed are to promote and improve the downtown Lodi business area, to generally improve business conditions in the downtown area, and to generally enhance the downtown area of the City of Lodi. Notwithstanding any other provision of these articles, this corporation shall not engage in any activities or exercise any powers that are not in furtherance of the purposes of this corporation.

Three: The name and address of the corporation's initial agent for service of process is Ronald M. Beckman, Esq., 111 N. Church Street, Lodi, California, 95240.

Four: The right to determine the consideration for which memberships will be issued shall be vested in the Regular Members, to be determined by a majority vote of the Regular Members in good standing.

Five: No part of the net earnings of the corporation shall inure to the benefit of any member or private shareholder, as defined for purposes of Section 501 (c) (5) of the Internal Revenue Code of 1954.

Dated: March 31, 1998

Ronald M. Beckman

Ronald M. Beckman, Incorporator





2006/2007 ANNUAL REPORT

Items listed below refer to Section 36533(b) of the California Streets and Highway Code:

No changes in boundaries of benefit zones within the area are proposed.

No physical improvements are planned.

Budget for the budget year July 1, 2006 through June 30, 2007 is enclosed as Exhibit B.

The budget details all sources of income and projected expenses.

A Benefit Fee Schedule and a Map of the Business Improvement Area are enclosed as Exhibits C & D respectively. There is a proposed 20% increase in the Benefit Fee Schedule.

**Downtown Lodi Business Partnership
4 West Pine Street, Lodi, California 95240
209.369.8052 phone 209.369.8053 fax
www.downtownlodi.com**

EXHIBIT A

Our downtown is the main focus point of our city. We as a city have made some of the investment into revitalization for example, new streets, wider tree lined sidewalks, a parking structure and a train station. The required change in focus of downtown merchants and businesses to speciality shops, small niche stores and destination businesses, for the most part has occurred. With these changes a sense of place was recreated that encourages people to visit and linger in our downtown regularly and for our many events. The redevelopment efforts and change of focus has allowed us to have a new identity and the value of possessing a strong sense of place. a recent trend that provides evidence of the value of our downtown is the attempt at developing new downtowns in the suburbs, which have no traditional core and therefore no sense of place. The value of downtown for its economic benefits, heritage and identity, benefits the entire community. A strong commitment by local government in conjunction with a well organized and active private sector is essential in keeping our efforts moving forward.

The DLBP has had 100% cooperation from our members regarding their assessments. We have addressed and solved any inequities within our benefit fee structure.

The Downtown Lodi Business Partnership strives to make all of our events and programs self supporting through sponsorship, donations and fundraising. In efforts to keep the DLBP financially sound we are implementing a 20% increase to our benefit fee structure. In addition to our regular membership, we have introduced a city wide volunteer membership program, Friends of Downtown, which allows any business or entity in Lodi to become volunteer member of the Downtown Lodi Business Partnership. We appreciate the city's negotiations for impact fees on commercial development in the outlying areas of our city. Although we will continue to strive towards our own financial responsibility, we hope to have the city's continued support.

The following are some of the things that the organization has done and is continuing to do to make our downtown the envy of the the San Joaquin Valley:

Relationships have been built with other Lodi entities such as; Chamber of Commerce, Conference and Visitor's Bureau, Lodi-Woodbridge Wine Grape Commission, Hutchins Street Square, WOW Science Museum, City of Lodi and many others. We have been the voice of downtown on varies committees such as the Lodi Centennial, Destination Lodi, Media Day and have been instrumental in the development of the "Shop Lodi" campaign with the Chamber. The DLBP has attended ribbon cuttings, events and socials that have made the organization more visible and given us the opportunity to build relationships within the community.

Programs have been developed or restructured such as:

Website:

The DLBP has revamped our website to become more user friendly. It provides links to various organizations and the City of Lodi such as; Lodi Chamber of Commerce, Lodi Conference and Visitors Center, Hutchins Street Square, Lodi Arts Commission, Lodi News-Sentinel and the

Lodi-Woodbridge Wine Grape Commission. We will also encourage our membership to further develop their own websites.

KJOY Radio Commercials:

The DLBP introduced a new program for the merchants to advertise within a Downtown Lodi commercial produced and aired on 99.3 KJOY. 12 merchants per month can have their business name and description highlighted in the the Downtown commercial. Four rotating commercials highlight three businesses at a time. This allows merchants to advertise at a group rate where they may not be able to individually. We hope the program gets more momentum and we can increase the number of participants and rotations.

Banners:

The DLBP launched it's Centennial banner program in March 2006. The program was restructured to become an annual program verses the previous seasonal campaigns. During Farmers Market and the Holiday seasons, the Centennial banners alternate with the seasonal banners. The campaign is a beneficial tool for the merchants to advertise and for the DLBP to fundraise and promote events through the year. There will be a newly designed banner launched in January of 2007!

Newspaper:

The Lodi News-Sentinel has been our primary source of advertising. Through the News-Sentinel, we promote Downtown with our own special pull-out Tabloid section eight times a year. This tool has been very beneficial for our membership and our organization. It has served to advertise our special events, inform the public with educational articles written by our membership, and give membership a discounted advertising rate.

Additionally, we use the Galt Herald, the Stockton Record, and the Pennysaver/Local Living on a limited basis for promoting events and media alerts.

Shop Lodi Campaign:

The Downtown Lodi Business Partnership has partnered with the Chamber of Commerce to develop a Shop Lodi Campaign. We have developed a logo and a structured plan to introduce and implement the Campaign in the near future. The purpose of this program is to convince consumers to shop Lodi first before going out of town. Shopping locally permits the local businesses to expand and allows them to underwrite community events, support charities, sponsor youth activities and generally help the community from which they derive their will being. Sales tax is on of the most important sources of funding that pays for the City of Lodi police, fire, maintenance personnel, street services and all other city functions. We can help improve our tax base. Shop Lodi goals are to increase purchases made in Lodi, thereby increasing retail sales and sales tax revenue. The purpose of this program is to educate the public and increase community awareness of the benefits of making their purchases in Lodi.

Friends of Downtown:

We developed a program that extends an invitation throughout the city of Lodi to become volunteer members of the Downtown Lodi Business Partnership. Any business or non-business entity can become a volunteer member of the DLBP. For \$250 per year or more, volunteer members can bring

their ideas to our Board of Directors meetings, serve on committees, have their listing on our website and have equal opportunities as regular members in promotional programs such as banners, radio and other activities. This give all of Lodi the opportunity to show their support of our downtown.

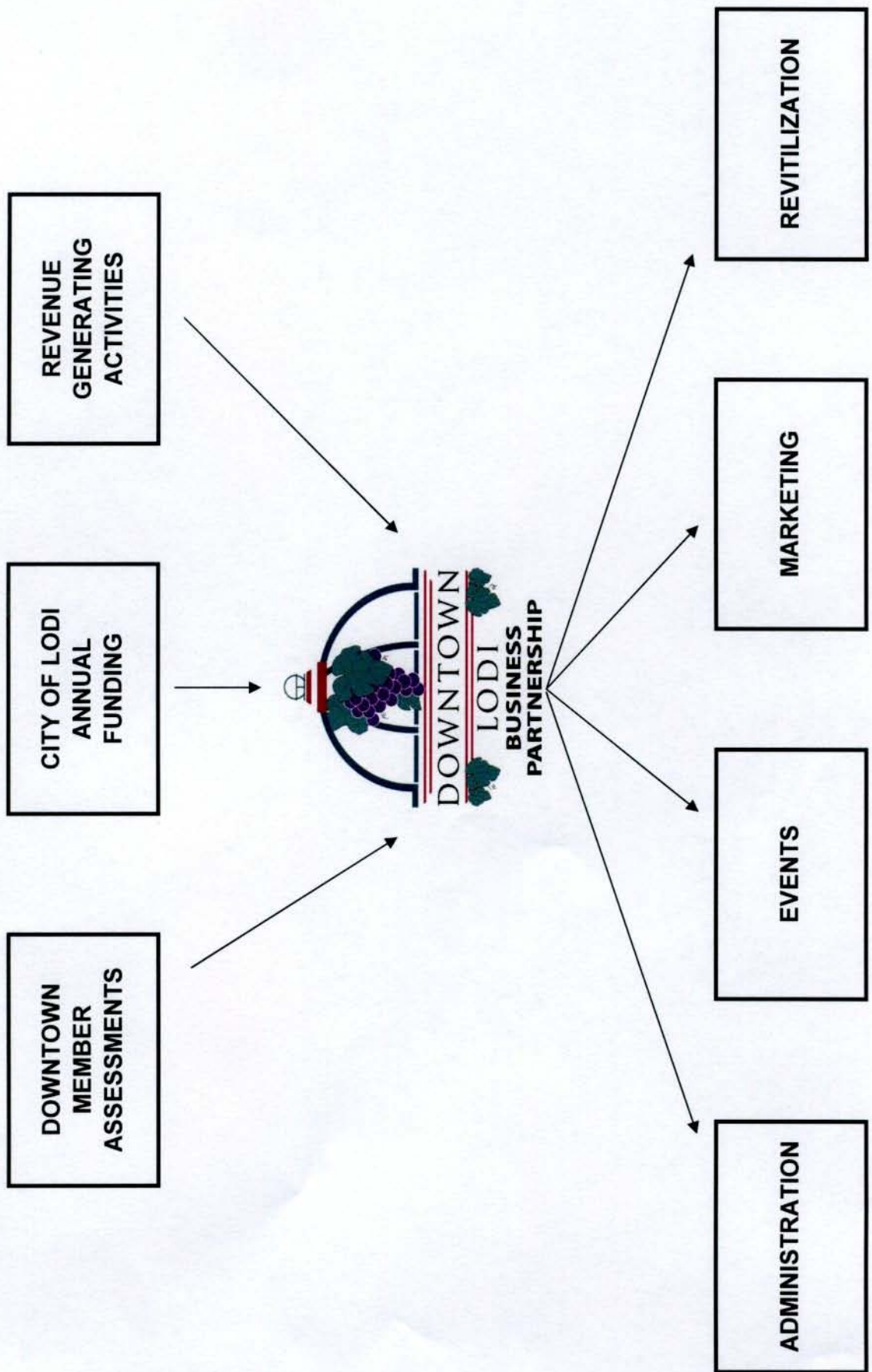
Kiosk Program:

Along with being an attractive staple of Downtown Lodi, the kiosk program has also become a great advertising tool for local arts, entertainment, and events. The DLBP is looking to refurbish the kiosks this next year and will work to make the program even better.

Events:

The Downtown Lodi Business Partnership will continue to rely on events held throughout the year to help promote and market Downtown. In addition to our celebratory and signature events, such as the Farmers Market and Parade of Lights, the DLBP will be adding more retail promotions in an effort to increase business for the merchants. A calendar of proposed events for 2007 is enclosed in this packet.

Downtown Lodi Business Partnership Overview



**DOWNTOWN LODI BUSINESS PARTNERSHIP
PROPOSED BUDGET**

JULY 1, 2006 THROUGH JUNE 30 2007

INCOME

Assessment Fees	41400.00
City of Lodi	35300.00
Wine & BBQ Cookoff	8000.00
Banner Program	7500.00
Easter Promotion	900.00
Farmers Market	60000.00
KJOY Radio Campaign	18000.00
Kiddie Parade	500.00
Parade of Lights	15000.00
Wine & Sausage Festival	3000.00
Winterfest	5000.00
Miscellaneous Events & Sales	4000.00
	<u>198600.00</u>

TOTAL INCOME

EVENT EXPENSES

Banner Program	3700.00
Easter Promotion	900.00
Farmers Market	35000.00
Kiddie Parade	500.00
Parade of Lights	4000.00
Wine & BBQ Cookoff	4700.00
Wine & Sausage Festival	500.00
Winterfest	3000.00
Miscellaneous	1000.00
	<u>53300.00</u>

MARKETING EXPENSES

Marketing Campaigns	9000.00
Mileage & Meetings	2000.00
Web Page Update	2000.00
Advertising & Promotion	7800.00
	<u>20800.00</u>

REVITALIZATION

Merchant Brochure	2000.00
Kiosk Update	2000.00
Tree Light Maintenance	3000.00
	<u>7000.00</u>

MEMBERSHIP

Placques & Trophies	500.00
Quarterly Mixers	500.00
Sunshine Committee	1000.00
Newsletters	1000.00
	<u>3000.00</u>

ADMINISTRATIVE EXPENSES

Bank Fees	960.00
Insurance	12000.00
Office Supplies	2000.00
Office Equipment	5000.00
Postage	1800.00
Payroll Expense	81000.00
Professional Fees	1000.00
Rent	5040.00
Professional Seminars & Training	1000.00
Storage	1200.00
Telephone	3500.00
	<u>114500.00</u>

TOTAL EXPENSES

198600.00

NET INCOME

0.00

1:10 PM
10/03/06
Cash Basis

Downtown Lodi Business Partnership
Balance Sheet
As of June 30, 2006

	Jun 30, 06
ASSETS	
Current Assets	
Checking/Savings	
Bank Accounts	
Checking - F & M	45,467.81
Savings - F & M	9,091.99
Total Bank Accounts	54,559.80
Petty Cash	165.87
Total Checking/Savings	54,725.67
Total Current Assets	54,725.67
Fixed Assets	
Office Equipment	6,956.33
Beer & Wine Equip.	1,326.17
Equipment	2,092.70
Accumulated Depr	-3,831.00
Total Fixed Assets	6,544.20
TOTAL ASSETS	61,269.87
LIABILITIES & EQUITY	
Liabilities	
Current Liabilities	
Credit Cards	
F & M Master Card	281.59
Total Credit Cards	281.59
Other Current Liabilities	
Payroll Liabilities	1,001.32
Total Other Current Liabilities	1,001.32
Total Current Liabilities	1,282.91
Total Liabilities	1,282.91
Equity	
Retained Earnings	50,373.78
Net Income	9,613.18
Total Equity	59,986.96
TOTAL LIABILITIES & EQUITY	61,269.87

4:14 PM
08/30/06
Cash Basis

Downtown Lodi Business Partnership
Profit & Loss
July 2005 through June 2006

	Jul '05 - Jun 06
Ordinary Income/Expense	
Income	
K-JOY	-1,207.00
Assessment Fees Collected	34,170.00
City of Lodi Funds	44,650.50
Banner Programs	
Farmers Market	150.00
Holiday	1,200.00
Banner Programs - Other	3,700.00
Total Banner Programs	5,050.00
2005 Farmer Market	
Craft Vendor Fees	6,102.56
Food Vendor Fees	3,907.44
Grower/Produce Vendor Fees	10,276.75
Member Vendor Fees	1,815.23
Sales Beer & Wine	11,915.00
Sponsorship-Other	2,875.00
Refunds	-35.00
Total 2005 Farmer Market	36,856.98
Farmers Market-Income	
Wine & Beer Garden	5,000.00
Farmers	3,050.00
Sponsorship	14,550.00
Craft Vendor Fee	10,808.31
Food Vendor	2,046.69
D.L.B.P. Member fees	875.00
Total Farmers Market-Income	36,330.00
Newsletter Advertising	80.00
Parade of Lights 2004	
Vendor Fee	960.00
Total Parade of Lights 2004	960.00
Parade of Lights 2005	
Sponsorship	1,750.00
Float Entry	7,030.00
Parade of Lights 2005 - Other	50.00
Total Parade of Lights 2005	8,830.00
Photos With Easter Bunny	835.00
Uncategorized Income	252.63
Wine & Sausage Festival	3,000.00
Winterfest - Income	
Photos w/ Santa	
Sponsorship	120.00
Photos w/ Santa - Other	150.00
Total Photos w/ Santa	270.00
Sponsorship	500.01
Total Winterfest - Income	770.01
Total Income	170,578.12
Expense	
Event Expense-Miscellaneous	
Supplies Misc.	46.12
Total Event Expense-Miscellaneous	46.12
Banner Program	
Centennial Banners	2,800.00
Labor	300.00
Total Banner Program	3,100.00

4:14 PM
08/30/06
Cash Basis

Downtown Lodi Business Partnership

Profit & Loss

July 2005 through June 2006

	Jul '05 - Jun '06
Family Faith Festival- Sanitation	50.00
Total Family Faith Festival-	50.00
Farmers Market Expenses	
Meals	45.61
Advertising	2,321.40
Banners	148.14
Beer & Wine	20,791.33
Entertainment	2,300.00
Labor/Repairs	3,781.79
License/Permits/Inspections	2,477.38
Posters/Signs	811.82
Promotions	558.30
Sanitation	1,306.01
Supplies	1,155.81
Farmers Market Expenses - Other	916.66
Total Farmers Market Expenses	36,614.25
Halloween Event	
Permits	32.00
Supplies	171.80
Total Halloween Event	203.80
Kiddie's Parade	
Goodie Bags	75.90
Advertising	28.61
Labor	200.00
Labor/Emcee	250.00
Permit/Inspections/License	32.00
Plaque-Sponsorship	87.01
Supplies	21.15
Kiddie's Parade - Other	23.98
Total Kiddie's Parade	718.65
Parade of Lights	
Towing Reimbursement	193.00
Signs	480.15
Advertising	50.00
Labor	250.00
Permits/Inspections/License	157.00
Sanitation	364.75
Supplies	0.00
Total Parade of Lights	1,494.90
Spring Event	
Advertising	542.84
Supplies	354.08
Total Spring Event	896.92
WinterFest	
Carriage Rides	2,300.00
Banners	37.71
Entertainment	100.00
Supplies	183.71
Total WinterFest	2,621.42
Advertising	
Maps	1,450.00
Newspaper	4,781.66
Posters/Banners/Signs	354.73
Radio	1,207.00
Advertising - Other	747.23
Total Advertising	8,540.62

4:14 PM
08/30/06
Cash Basis

Downtown Lodi Business Partnership
Profit & Loss
July 2005 through June 2006

	Jul '05 - Jun 06
Bank Service Charges	510.16
Credit Card Fees	518.57
Dues & Subscriptions	96.00
Helium Tank Rental	458.97
Holiday Decorations/Events	34.05
Insurance	
Liability Insurance	9,138.35
Medical	805.16
Work Comp	719.04
Total Insurance	10,662.55
Internet Services	
Design	900.00
Hosting/Maintenance/Domain Name	880.00
Total Internet Services	1,780.00
Janitorial	5.00
Licenses/Permits/Inspections	20.00
Maintenance	657.56
Meals & Entertainment	26.12
Meetings	789.36
Mileage	222.02
Miscellaneous Committees	
Shop Lodi Campaign	375.00
Total Miscellaneous Committees	375.00
Miscellaneous	498.33
Newsletter	436.65
Office Maintenance & Repairs	498.07
Office Supplies	4,461.40
Penalties	30.98
Postage and Delivery	1,059.59
Payroll Expense	
Administrator Salaries	33,660.00
Office Salaries	25,445.84
Payroll Tax Expense	10,282.00
Payroll Expense - Other	0.00
Total Payroll Expense	69,387.84
Printing	176.05
Professional Fees	
Accounting	400.00
Bookkeeping	300.00
Legal Fees	528.75
Professional Fees - Other	560.00
Total Professional Fees	1,788.75
Promotions	679.26
Rent	5,460.00
Repairs	
Computer Repairs/service	928.60
Repairs - Other	525.14
Total Repairs	1,453.74
Seminars	100.00
Sunshine Committee	331.41
Supplies	737.50
Taxes	
Federal	0.00
State	20.00
Total Taxes	20.00

4:14 PM
08/30/06
Cash Basis

Downtown Lodi Business Partnership
Profit & Loss
July 2005 through June 2006

	Jul '05 - Jun 06
Telephone	
Cell Phone	197.05
Telephone - Other	1,614.88
Total Telephone	1,811.93
Utilities	332.95
Pending	1,299.79
Total Expense	161,006.28
Net Ordinary Income	9,571.84
Other Income/Expense	
Other Income	
Interest Income	41.34
Total Other Income	41.34
Net Other Income	41.34
Net Income	9,613.18



EXHIBIT C

DOWNTOWN LODI BUSINESS PARTNERSHIP BENEFIT FEE SCHEDULE

BUSINESS TYPE	ZONE A	ZONE B
Retailers/Restaurants*	\$240 (1-3 Employees)	\$120
	\$360 (4-6 Employees)	\$180
	\$480 (7+ Employees)	\$240
Service Businesses	\$180	\$90
Professional Businesses	\$120	\$60
Financial Institutions	\$600	\$600

**Note: Retail and restaurant businesses are assessed based on the number of employees - either full-time, or the equivalent made up of multiple employees.*

BUSINESS TYPE DEFINITIONS:

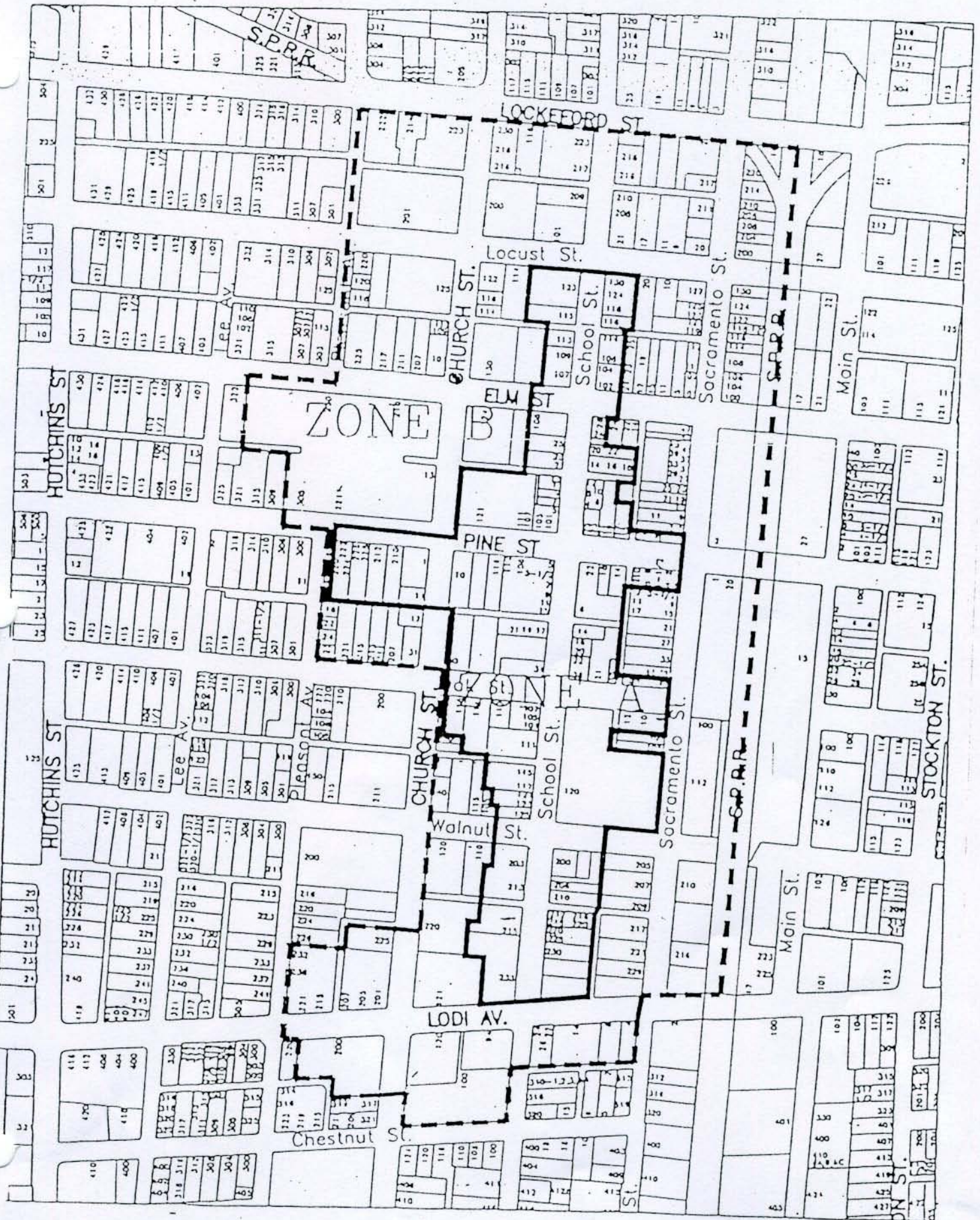
Retail and Restaurant – Businesses that buy and resell goods. Examples would be clothing stores, shoe stores, office supplies, as well as businesses that sell prepared food and drinks.

Service Businesses – Businesses that sell services. Examples are beauty and barber shops, repair shops, lodging, most automotive-oriented businesses, entertainment businesses such as theaters, etc.

Professional Businesses – Includes architects, engineers, attorneys, dentists, doctors, accountants, optometrists, realtors, insurance offices, mortgage brokers and most other businesses which require advanced or specialized licenses, and/or advanced academic degrees.

Financial Institutions – Includes banking and savings and loan institutions, as well as credit unions, etc.

Downtown Lodi Business Partnership
4 West Pine Street, Lodi, California 95240
209.369.8052 phone 209.369.8053 fax
www.downtownlodi.com





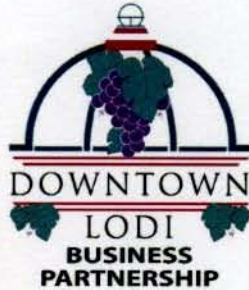
DOWNTOWN LODI BUSINESS PARTNERSHIP MISSION STATEMENT

Under agreement with the City of Lodi, the Downtown Lodi Business Partnership (DLBP) manages the Downtown Business Improvement Area (BIA), and works in partnership with businesses, property owners, cultural institutions and local city officials to enhance the revitalization efforts of downtown Lodi. Since it's inception, the Downtown Lodi Business Partnership has been instrumental in the tremendous growth and vibrancy of the downtown community.

The mission statement of the DLBP is to:

- **Encourage the development of new businesses, while retaining and revitalizing existing businesses**
- **Promote retail activity by creating and maintaining a quality environment through cooperative advertising and special events in the downtown area**
- **Serve as an advocate for downtown businesses in dealing with local government, maintenance projects, the media and general public**

**Downtown Lodi Business Partnership
4 West Pine Street, Lodi, California 95240
209.369.8052 phone 209.369.8053 fax
www.downtownlodi.com**



THE BROWN ACT

The DLBP complies with the Ralph M. Brown Act for its board meetings, general meetings and standing committee meetings.

Agendas of board meetings, general meetings or standing committee meetings shall be publicly posted 72 hours in advance of that meeting.

All DLBP meetings are open to the public. The only exceptions for closed meetings are for personnel issues and litigation issues.

For DLBP board meetings and general meetings, a copy of the meeting agendas are sent to board members via email, delivered to those without email, and posted in the window of the DLBP office located at 4 W. Pine Street.

A copy of the agenda for those meetings is also sent to The Lodi News Sentinel and The Stockton Record.

For committee meetings, the agendas are posted in the window of the DLBP office for public review.

For specific terms of the Brown Act, please refer to the Brown Act file located in the DLBP office.

Downtown Lodi Business Partnership
4 West Pine Street, Lodi, California 95240
209.369.8052 phone 209.369.8053 fax
www.downtownlodi.com



2007 DOWNTOWN CALENDAR OF EVENTS

<u>EVENT</u>	<u>DATE</u>
Valentine's Day Retail Promotion	Saturday, February 10
Sacramento Street Car Show	Saturday, March 31
Spring Sidewalk Sale	Saturday, April 7
Photos with the Easter Bunny	Saturday, April 7
Mother's Day Promotion	Saturday, May 12
Farmers Market & Festival	Thursdays, June 7 through September 27
Wine & Sausage Festival	Sunday, June 10
Father's Day Promotion	Saturday, June 16
Wine & BBQ Cookoff	Friday, July 27 & Saturday, July 28
70th Annual Grape Festival Youth Parade	Saturday, September 15
Downtown Safe Halloween	Wednesday, October 31
Winterfest Photos with Santa Free Carriage Rides Merchant Window & Lighting Contest	Saturdays, November 24 through December 15
12th Annual Parade of Lights	Thursday, December 6

Downtown Lodi Business Partnership
4 West Pine Street, Lodi, California 95240
209.369.8052 phone 209.369.8053 fax
www.downtownlodi.com

DOWNTOWN LODI BUSINESS PARTNERSHIP 2007 MARKETING PLAN

Objective:

Through advertising, events, and special merchant promotions that highlight our businesses and historic buildings and streets, the Downtown Lodi Business Partnership's marketing goal is to bring visitors and residents to Downtown.

Goals:

The main goal of the DLBP is to bring more customers and businesses to the downtown, therefore, increasing the tax base. The DLBP will work together with organizations such as the Conference and Visitors Bureau, Chamber of Commerce, Hutchins Street Square, Lodi-Woodbridge Wine Grape Commission, and the City of Lodi to develop collaborative events and promotions that will help market and promote not only Downtown Lodi, but the City of Lodi as well. The DLBP will continue to work on strengthening its relationship with the downtown merchants by offering a full program of services to our members:

- Quarterly newsletters
- Quarterly Member Meetings
- New Business Information Packets
- Parking and Safety Committee
- Marketing and Events Committee
- Economic Development Committee
- Boundaries and Assessments Committee
- Sunshine Committee
- DLBP office staff to serve the membership and public
- Serve as an advisory advocate for the membership with the City of Lodi



***Please immediately confirm receipt
of this fax by calling 333-6702***

CITY OF LODI
P. O. BOX 3006
LODI, CALIFORNIA 95241-1910

ADVERTISING INSTRUCTIONS

SUBJECT: Notice of Public Hearing to approve Downtown Lodi Business Partnership 2006-07 annual report and to adopt resolution levying the annual assessment fees for the Downtown Lodi Business Partnership.

LEGAL AD

PUBLISH DATE: SATURDAY, OCTOBER 7, 2006

TEAR SHEETS WANTED: Three (3) please

SEND AFFIDAVIT AND BILL TO: JENNIFER M. PERRIN, INTERIM CITY CLERK
City of Lodi
P.O. Box 3006
Lodi, CA 95241-1910

DATED: THURSDAY, OCTOBER 5, 2006

ORDERED BY: JENNIFER M. PERRIN
INTERIM CITY CLERK

JENNIFER M. PERRIN, CMC
INTERIM CITY CLERK

JACQUELINE L. TAYLOR, CMC
DEPUTY CITY CLERK


DANA R. CHAPMAN
ADMINISTRATIVE CLERK

Verify Appearance of this Legal in the Newspaper – Copy to File

LNS Faxed to the Sentinel at 369-1084 at 2:50pm (time) on 10/5/06 (date) 3 (pages)
DAVE Phoned to confirm receipt of all pages at 3:30 (time) JLT DRC JMP (initials)

NOTICE OF PUBLIC HEARING

RESOLUTION NO. 2006-182

A RESOLUTION OF INTENTION TO LEVY ANNUAL ASSESSMENT FOR DOWNTOWN LODI BUSINESS IMPROVEMENT AREA NO. 1, ESTABLISHING PUBLIC HEARING DATE, AND APPROVING ANNUAL REPORT

=====

WHEREAS, Downtown Lodi Business Improvement Area No. 1 was established December 17, 1997, by Council adoption of Ordinance 1654; and

WHEREAS, the Annual Report, as required by Streets and Highways Code §36533, has been submitted to the Council by the Board of Directors of said improvement area.

NOW, THEREFORE, the City Council of the City of Lodi does hereby resolve, determine, and find as follows:

1. Approved the Annual Report as submitted, said Report being on file with the City Clerk.
2. Establishes October 18, 2006, in the City Council Chambers, at Carnegie Forum, 305 West Pine Street, Lodi, California, at 7:00 p.m., or soon thereafter as possible, as the date, place, and time to hold the public hearing required by Streets and Highway Code §36534.
3. It is the intention of the City Council to levy and collect assessments within the parking and business improvement area for calendar year 2007 (the Area's fiscal year).
4. The boundaries of the entire area to be included in the Area and the boundaries of each separate benefit zone within the area are set forth in a *Map, Exhibit D, incorporated herein by reference. A true and correct copy of the map is on file with the City Clerk of the City of Lodi.
5. The types of improvements and activities proposed to be funded by the levy of assessments on businesses in the Area include marketing and promotional efforts; event coordination; and other activities with the goal to promote retail activities. A detailed description of activities is included in the Annual Report, *Exhibit A, and incorporated by reference.
6. At the time of the public hearing, written and oral protests may be made. The form and manner of protests shall comply with Streets and Highways Code §§36524 and 36525.

*NOTE: Information regarding this matter and referenced exhibits may be obtained in the Office of the City Clerk, City Hall, 221 West Pine Street, Lodi, CA 95240. All interested persons are invited to present their views and comments on this matter. If you challenge the subject matter in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice or in written correspondence delivered to the City Clerk prior to the close of the public hearing.

Dated: October 4, 2006

=====

I hereby certify that Resolution No. 2006-182 was passed and adopted by the City Council of the City of Lodi in a regular meeting held October 4, 2006, by the following vote:

AYES: COUNCIL MEMBERS – Beckman, Johnson, Mounce, and Mayor Hitchcock

NOES: COUNCIL MEMBERS – Hansen

ABSENT: COUNCIL MEMBERS – None

ABSTAIN: COUNCIL MEMBERS – None

Jennifer Perrin
Interim City Clerk

2006-182



DECLARATION OF POSTING

Notice of Public Hearing to approve Downtown Lodi Business Partnership 2006-07 annual report and to adopt resolution levying the annual assessment fees for the Downtown Lodi Business Partnership.

On Friday, October 6, 2006, in the City of Lodi, San Joaquin County, California, a Notice of Public Hearing to approve Downtown Lodi Business Partnership 2006-07 annual report and to adopt a resolution levying the annual assessment fees for the Downtown Lodi Business Partnership was posted at the following locations:

Lodi Public Library
Lodi City Clerk's Office
Lodi City Hall Lobby
Lodi Carnegie Forum

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 6, 2006, at Lodi, California.

ORDERED BY:

JENNIFER M. PERRIN
INTERIM CITY CLERK

JENNIFER M. PERRIN, CMC
INTERIM CITY CLERK

JACQUELINE L. TAYLOR, CMC
DEPUTY CITY CLERK

A handwritten signature in dark ink, appearing to read "Dana R. Chapman", is written over a horizontal line.

DANA R. CHAPMAN
ADMINISTRATIVE CLERK



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Authorize City Manager to Execute Agreement with Property Owner for Watershed Mural at 207 West Oak Street

MEETING DATE: October 18, 2006

PREPARED BY: Public Works Director

RECOMMENDED ACTION: Authorize the City Manager to execute an agreement with the property owner for a watershed mural at 207 West Oak Street.

BACKGROUND INFORMATION: The City of Lodi has participated in watershed protection and enhancement activities in a variety of ways. The City currently is acting as a subcontractor to the San Joaquin Resource Conservation District in a State Water Resources Control Board watershed education grant. The mural was earmarked in the grant funding and expenses are reimbursable if completed by May 2007.

Per the grant, the watershed mural is to be located in a high-traffic public site. Staff has worked with the Wall Dogs Committee in the location and composition of this mural. The goal is to have the mural be a high-quality piece of art in keeping with the other Wall Dogs murals downtown. The mural will be painted on panels and installed on the wall. The work is being done by artist Suzanne Kennedy who has created previous murals in Lodi, including the PG&E wall on Cherokee Lane and the Lodi Lake nature area murals. Ms. Kennedy will use the mural creation and its theme as part of the watershed education program involving local high school students.

The proposed design focuses on both current and historical uses of Lodi Lake. The proposed location is on the east-facing wall of the building at 207 West Oak Street. The view of this wall from Church Street is excellent.

The agreement is modeled after the other Wall Dogs agreements and provides that the City will maintain the mural for ten years.

FISCAL IMPACT: The estimated cost of the mural is \$20,000. The cost is already budgeted and is reimbursable as described above. Maintenance costs (if any) should be minimal.

FUNDING AVAILABLE: Water Fund, Watershed Grant

Ruby Paiste, Financial Services Manager

Richard C. Prima, Jr.
Public Works Director

RCP/pmf
Attachment

APPROVED: _____
Blair King, City Manager

Watershed Mural Ten-Year Agreement

Made this _____ day of _____, 2006, between the City of Lodi (City) and Scott R. and Dina M. Marcus, Trustees (Owner).

WHEREAS, the parties wish to have a mural painted on removable panels and then installed on the owner's property.

1. City will:

- A. Provide an overview of the mural project to the Property Owner and keep the Property Owner updated on the progress of the project.
- B. Be responsible for all expenses necessary to paint and install the mural and for the preparation of the surface where the mural will be installed.
- C. Be responsible for all expenses necessary to properly maintain the mural for a minimum of 10 years.
- D. Provide property damage and liability insurance to cover the installation and maintenance of the mural.
- E. Reserve the right to relocate the mural off the present Property Owner's property. In the event of a mural relocation, City will also be responsible for all expenses necessary for restoring the original surface where the mural was mounted to its pre-mural condition. This work will be coordinated by the City together with the Property Owner

2. Property Owner will:

- A. Consult with the City prior to making any changes to the mural surface prior to implementing the mural.
- B. After the mural is completed and installed, Property Owner will not make any changes to the mural or the mural surface without City's written permission.

3. This agreement is binding upon the heirs, successors and assigns of Property Owner.

Property Owner:

City:

By: _____

Blair King, City Manager

APPROVED AS TO FORM:

ATTEST:

D. Stephen Schwabauer, City Attorney

Jennifer M. Perrin, Interim City Clerk

Property Address: 207 West Oak Street (APN 043-032-08), East Wall



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Adopt Resolution authorizing the City Manager to accept a grant award for the Railroad Corridor Transit Oriented Development (TOD) Plan from the California Department of Transportation (Caltrans) in the amount of \$75,000 with an in kind contribution of \$9,250 and a fiscal contribution of \$9,500 and to execute all necessary agreements; and upon execution of the Grant by Caltrans, authorize the City Manager to solicit proposals from qualified consultants to prepare a Railroad Corridor TOD Plan in a designated area downtown

MEETING DATE: October 18, 2006

PREPARED BY: Community Development Director, Randy Hatch

RECOMMENDED ACTIONS: 1) Adopt Resolution authorizing the City Manager to accept a grant award for the Railroad Corridor Transit Oriented Development Plan from the California Department of Transportation (Caltrans) in the amount of \$75,000 with an in kind contribution of \$9,250 and a fiscal contribution of \$9,500 and to execute all necessary agreements. 2) Authorize the City Manager to solicit proposals from qualified consultants to prepare a Railroad Corridor Transit Oriented Development Plan in a designated area downtown after execution of the Grant by Caltrans.

BACKGROUND INFORMATION: The City of Lodi has received a Community Based Planning grant in the amount of \$75,000 with an in kind contribution of \$9,250 and a fiscal contribution of \$9,500 from street funds and Measure K for a Transit Oriented Development (TOD) Plan. This money has been awarded

to the City of Lodi to perform a planning study of Transit Oriented Design. These types of mixed use developments are placed next to transit depots such as our Multi-Model Transit Station to reduce the dependence of single passenger vehicle trips for commuting and promote the use of mass transit. Staff recommends that the Council adopt a resolution to authorize the City Manager to accept the grant award for the Community Based Planning grant from Caltrans and execute all required documents and agreements.

Recent studies of transit ridership in California (see Gov. Code 65460.1) indicate that persons who live near transit and rail transit stations utilize public transportation in far greater numbers than does the general public living elsewhere. Lodi needs to plan for the arrival of commuter rail transit between Sacramento and Stockton. The TOD grant will serve as a kick-off in planning for commuter rail transit residential opportunities.

According to the Caltrans website, "The Community Based Transportation Plan (CBTP) grant program is primarily used to seed planning activities that encourage livable communities. CBTP grants assist local agencies to better integrate land use and transportation planning,." Only 23 grants were awarded

APPROVED: _____
Blair King, City Manager

statewide and the City of Lodi was one of only two (the other being the community of Arnold) in District 10 (San Joaquin, Stanislaus, Merced, Calaveras, Amador, Alpine, Tuolumne and Mariposa Counties). Upon execution of the Grant by Caltrans, Staff recommends that the City Council authorize the City Manager to solicit proposals from qualified consultants to prepare a Transit Oriented Design Plan to improve the opportunities for mixed use development close to the Multi-Mobile Station. Once qualified proposals/bids are received, staff will make a recommendation to the City Council for consideration and approval.

FISCAL IMPACT:

There will be no fiscal impact to the City's General fund for this project. Denial of the grant funding could negatively impact future grant requests from being awarded.

FUNDING AVAILABLE:

The grant for the Community Based Planning grant is in the amount of \$75,000 with an in-kind contribution of \$9,250 and a fiscal contribution of \$9,500 from street funds and Measure K. No general fund money is necessary to execute or accept the grant.

Ruby Paiste, Financial Services Manager

Randy Hatch
Community Development Director

RH/pp/kc

Cc: Tiffani M. Fink, Transportation Manager
Peter Pirnejad, Planning Manager
Rebecca Areida, Management Analyst

RESOLUTION NO. 2006-_____

A RESOLUTION OF THE LODI CITY COUNCIL ACCEPTING GRANT
AWARD FOR THE RAILROAD CORRIDOR TRANSIT ORIENTED
DEVELOPMENT PLAN FROM THE CALIFORNIA DEPARTMENT OF
TRANSPORTATION (CALTRANS), AND FURTHER AUTHORIZING THE
CITY MANAGER TO EXECUTE ALL NECESSARY AGREEMENTS

=====

NOW, THEREFORE, BE IT RESOLVED, that the Lodi City Council does hereby authorize the City Manager to accept the \$75,000 Community Based Planning Grant from Caltrans, with an in kind contribution of \$9,250 and a fiscal contribution of \$9,500 from Street Funds and Measure K for a Railroad Corridor Transit Oriented Development Plan; and

BE IT FURTHER RESOLVED, that the City Manager is hereby authorized to execute all necessary agreements for receipt of the grant.

Dated: October 18, 2006

=====

I hereby certify that Resolution No. 2006-_____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held October 18, 2006, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

JENNIFER M. PERRIN
Interim City Clerk

2006-_____



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Adopt resolution authorizing the City Manager and Electric Utility Director to procure energy and/or natural gas for fiscal year 2007-08 at a cost not to exceed \$25 million (EUD)

MEETING DATE: October 18, 2006

PREPARED BY: Electric Utility Director

RECOMMENDED ACTION: Authorize the City Manager and Electric Utility Director to procure energy and/or natural gas to reduce Electric Utility Department's open position (energy not fully procured on an advanced basis) for fiscal year 2007-08 in accordance with the City of Lodi Energy Risk Management Policies at a cost not to exceed \$25 million.

BACKGROUND INFORMATION: Lodi's Electric Utility Department (EUD) must procure wholesale energy in order to economically meet its customer load obligations for fiscal year 2007-08 (FY08) and beyond. In FY08, EUD's projected "open position" is approximately 340 gigawatt-hours (GWH) or about 65% of EUD's total customer load obligation.

As long as EUD has a net open position, it will be exposed to price risk associated with market volatility since prices are regularly rising and falling in the wholesale energy markets. To reduce exposure to this price risk to an acceptable level, EUD's open position can be reduced through strategic market purchases. In FY07, for instance, a series of energy and natural gas purchases were consummated which reduced EUD's open position from over 60 percent to a level of less than 5 percent.

Attachment 1 is load and resource balance statement for EUD for FY08. It details (i) EUD's projected load serving obligations, (ii) the sources of energy supply available to EUD from its own resource entitlements and (iii) the remaining energy balances that must be procured from the market in order to serve EUD's customers in the most economic fashion. This attachment shows a FY08 load obligation of 500 GWH, a contribution of 160 GWH from EUD's resource entitlements and a net open position of about 340 GWH. Attachment 1 also shows that the estimated cost of procuring energy to close EUD's FY08 open position is \$23 million based on current energy market conditions.

EUD intends to close the bulk of its FY08 open position by making a number of energy and/or natural gas purchases over the next 6 to 8 months, although additional purchases may be made throughout FY08 when prudent to reduce risk and manage energy costs. As outlined in the Energy Risk Management Policy adopted by City Council on January 18, 2005, the City's Risk Oversight Committee will review proposed transactions and purchasing strategies.

The FY08 energy and natural gas purchases will be made through procurement activities directed by the Northern California Power Agency (NCPA). Presently, NCPA is authorized to procure energy and natural

APPROVED: _____
Blair King, City Manager

Adopt resolution authorizing the City Manager and Electric Utility Director to procure energy and/or natural gas for fiscal year 2007-08 at a cost not to exceed \$25 million (EUD)

October 18, 2006

Page 2 of 2

gas for its member agencies for a period of up to one year; however the NCPA Commission can extend this period if it desires.

This requested authorization includes the possible purchase of natural gas. Spot natural gas prices have dropped dramatically over the past few months and short term prices are at their lowest since 2003. As a result, it may be economic to purchase natural gas on a forward basis for consumption by the Lodi STIG Plant (located at White Slough) to satisfy portions of next summer's (1st quarter of FY08) open position.

For information, EUD is presently working with other NCPA members to establish a longer term energy buying program to be administered by NCPA. Preliminary concepts for such an arrangement are expected to be considered by the NCPA Commission over the next couple of months. If favorably received by the Commission, detailed contractual documents to establish a formal energy/gas buying program will be developed for formal approval by participating members. It is expected that NCPA members desiring to belong to the "NCPA Power Procurement Project" would be able to purchase energy out at least three years under a structured "laddering" arrangement still under development.

FISCAL IMPACT: The total cost of procurement under the authorization requested is estimated at \$23 million based on market price curves prevailing on October 1, 2006.

FUNDING: Costs associated with procurement under this authorization will not be incurred until energy is delivered in fiscal year 2008. The City has not adopted a budget for fiscal year 2007-08 and as a result, funding has not yet been established. Funding for this authorization will be supported by retail electricity sales revenue, once the fiscal year 2007-08 budget is established and approved by the City Council.

Ruby Paiste, Financial Services Manager

George F. Morrow
Electric Utility Director

GFM/lst

Attachment

Attachment 1

City of Lodi		JULY 07	AUG	SEPT	OCT	NOV	DEC	JAN 08	FEB	MAR	APR	MAY	JUNE 08	TOTALS
LOAD	MWH Total	55,715	50,820	44,023	38,559	36,230	39,545	38,194	35,393	37,408	36,482	40,886	46,913	500,168
	HLH	34,995	33,864	27,366	25,296	23,461	24,495	24,332	23,026	23,955	23,855	26,027	30,381	321,053
	LLH	20,720	16,956	16,657	13,263	12,769	15,050	13,862	12,367	13,453	12,627	14,859	16,532	179,115
NCPA Gen.	MWH Total	21,296	17,294	19,689	15,301	2,687	1,595	2,867	4,078	6,023	13,508	17,321	22,553	144,212
	Geothermal	8,664	8,644	8,345	8,602	8,293	8,551	8,530	7,685	8,108	7,078	7,984	8,159	98,643
	Calaveras	3,839	3,081	2,760	2,407	1,764	2,843	3,683	4,834	7,262	8,300	9,337	5,810	55,918
	CT1	-	-	-	-	-	-	-	-	-	-	-	-	-
	STIG	-	-	-	-	-	-	-	-	-	-	-	-	-
	SCL Exchange	8,794	5,569	8,584	4,292	(7,370)	(9,799)	(9,347)	(8,442)	(9,347)	(1,869)	-	8,584	(10,349)
WESTERN	MWH Total	2,570	1,972	1,319	799	510	701	799	956	1,015	1,413	2,168	2,158	16,382
Open Position	MWH Total	(31,848)	(31,554)	(23,015)	(22,458)	(33,033)	(37,249)	(34,528)	(30,359)	(30,369)	(21,562)	(21,397)	(22,201)	(339,573)
	HLH	(17,311)	(19,890)	(12,023)	(14,141)	(23,564)	(25,235)	(24,410)	(21,563)	(21,439)	(14,526)	(13,259)	(12,893)	(220,254)
	LLH	(14,537)	(11,665)	(10,992)	(8,317)	(9,469)	(12,014)	(10,118)	(8,795)	(8,931)	(7,036)	(8,138)	(9,309)	(119,320)
\$ Total		(2,321,539)	(2,387,717)	(1,662,044)	(1,583,311)	(2,366,164)	(2,650,119)	(2,303,889)	(2,027,513)	(2,025,840)	(1,247,570)	(1,219,833)	(1,252,078)	(23,047,616)
HLH		(1,514,720)	(1,740,332)	(1,051,975)	(1,067,670)	(1,779,084)	(1,905,275)	(1,757,517)	(1,552,567)	(1,543,576)	(915,139)	(835,318)	(812,242)	(16,475,416)
LLH		(806,819)	(647,385)	(610,068)	(515,641)	(587,079)	(744,843)	(546,372)	(474,946)	(482,264)	(332,432)	(384,515)	(439,836)	(6,572,200)

GM
10/6/2008
Source: NCPA

RESOLUTION NO. 2006-_____

A RESOLUTION OF THE LODI CITY COUNCIL
AUTHORIZING THE CITY MANAGER AND ELECTRIC
UTILITY DIRECTOR TO PROCURE ENERGY AND/OR
NATURAL GAS FOR FISCAL YEAR 2007-08 AT A COST
NOT TO EXCEED \$25 MILLION

=====

WHEREAS, the City of Lodi must procure wholesale energy in order to economically meet its load serving obligations to its customers for fiscal year 2007-08 with the projected amount of wholesale energy that must be procured equaling approximately 65% of Lodi's total load serving obligation; and

WHEREAS, to begin reducing Lodi's exposure to this market volatility, staff recommends procurement of electricity and/or natural gas to reduce or eliminate Lodi's net open position for fiscal year 2007-08; and

WHEREAS, it is expected that Lodi's purchases under this Resolution will be made through the procurement activities of the Northern California Power Agency and could occur in a various amounts and timeframes through the end of fiscal year 2007-08; and

WHEREAS, Lodi's purchases under this Resolution will conform to the accepted transaction types and other provisions of the City of Lodi Energy Risk Management Policies adopted by the City Council on January 18, 2006 (Resolution 2006-19).

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby authorize the City Manager and Electric Utility Director to procure energy and/or natural gas to reduce Lodi Electric Utility's open position to meet load-serving obligations for fiscal year 2007-08 in accordance with the City of Lodi Energy Risk Management Policies at a cost not to exceed \$25 million.

Dated: October 18, 2006

=====

I hereby certify that Resolution No. 2006-_____ was passed and adopted by the Lodi City Council in a regular meeting held October 18, 2006, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

JENNIFER M. PERRIN
Interim City Clerk

2006-_____



CITY OF LODI

COUNCIL COMMUNICATION

TM

AGENDA TITLE: Approval of Expenses Incurred by Outside Counsel/Consultants Relative to the Environmental Abatement Program Litigation and Various Other Cases being Handled by Outside Counsel (\$11,309.23)

MEETING DATE: October 18, 2006 City Council Meeting

PREPARED BY: City Attorney's Office

RECOMMENDED ACTION: Approve for payment expenses incurred by outside Counsel/Consultants related to the Environmental Abatement Litigation in the total amount of \$11,059.39, and Various other cases being held by Outside Counsel in the amount of \$249.84.

BACKGROUND INFORMATION: Listed below are invoices from the City's outside counsel, Kronick, Moskovitz, Tiedemann & Girard; and JAMS Mediation Service, for services incurred relative to the Environmental Abatement Program litigation, and various other matters that are currently outstanding and need to be considered for payment.

Kronick Moskovitz Tiedemann & Girard - Invoices Distribution

			Account: 100351.7323	Total
11233.026	228236	09/25/06	Lodi First v. City of Lodi	97.84
11233.027	228236	09/25/06	Citizens for Open Govt.v.Col	152.00
				<u>249.84</u>

JAMS (Mediation Services)

Account: Water

Invoice #0001204354-110	State of California v. M&P Investments	\$6,759.39
Invoice #00001199497-100	Hartford v. City of Lodi	\$4,300.00

FISCAL IMPACT: Expenses in the amount of \$249.84 will be paid out of the General Fund and will then be billed to Walmart for City's defense of the Lodi First v. City of Lodi and Citizens for Open Government litigation. The remaining expenses will be paid out of the Water Fund.

FUNDING AVAILABLE:

Water Fund	\$11,059.39
General Fund	\$ 249.84

Approved:

Approved:

Ruby Paiste, Financial Services Manager

Stephen Schwabauer, City Attorney

APPROVED:

Blair King, City Manager